

AMERICAN NEUTRALITY POLICY

HEARINGS

BEFORE THE

COMMITTEE ON FOREIGN AFFAIRS HOUSE OF REPRESENTATIVES

SEVENTY-FOURTH CONGRESS

SECOND SESSION

ON

H. J. Res. 422

TO MAINTAIN THE NEUTRALITY OF THE UNITED
STATES IN THE EVENT OF WAR OR THREAT
OF WAR BETWEEN OR AMONG
FOREIGN NATIONS

JANUARY 7, 8, 9, 10, 13, 14, AND 15, 1936

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AMERICAN NEUTRALITY POLICY

[NOTE.—Hearings on January 7 and 8, 1936, were in executive session but committee has decided to include same with other hearings on the neutrality bill.]

TUESDAY, JANUARY 7, 1936

HOUSE OF REPRESENTATIVES,
COMMITTEE ON FOREIGN AFFAIRS,
Washington, D. C.

The committee met at 10.30 a. m., Hon. Sam D. McReynolds (chairman) presiding.

The CHAIRMAN. The committee will come to order.

Mr. JOHNSON. Mr. Chairman, I move that for the present the committee go into executive session to hear representatives of the State Department.

The CHAIRMAN. If there is no objection, the committee will go into executive session.

(Whereupon the committee went into executive session.)

The CHAIRMAN. The resolution under consideration is as follows:

[H. J. Res. 422, 74th Cong., 2d sess.]

JOINT RESOLUTION To maintain the neutrality of the United States in the event of war or threat of war between or among foreign nations

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Neutrality Act of 1936."

DEFINITIONS

SEC. 2. For the purposes of this Act—

(a) The term "Board" means the National Munitions Control Board.

(b) The term "United States" when used in a geographical sense means the continental United States, the Territories, and insular possessions of the United States (including the Philippine Islands), the Canal Zone, and the District of Columbia.

(c) The term "person" means a natural person, corporation, partnership, organization, or association.

(d) The term "vessel" means every description of watercraft (including aircraft) or other contrivance used, or capable of being used, as a means of transportation on or over water.

(e) The term "American vessel" means any vessel (including aircraft) documented under the laws of the United States.

(f) The term "vehicle" means every description of carriage (including aircraft) or other contrivance used, or capable of being used, as a means of transportation on or over land.

EXPORT OF ARMS, AMMUNITION, AND IMPLEMENTS OF WAR

SEC. 3. (a) Upon the outbreak or during the progress of any war between, or among, two or more foreign states, the President shall proclaim such fact, and it shall thereafter be unlawful to export, or attempt to export, or cause to be

exported, or sell for export, arms, ammunition, or implements of war from any place in the United States to any belligerent country, named in the proclamation, or to any neutral country for transshipment to, or for the use of, any such belligerent country.

(b) The President shall, by proclamation, definitely enumerate the arms, ammunition, and implements of war the export of which is prohibited by this Act.

(c) The President shall, from time to time, by proclamation, extend such embargo upon the export of arms, ammunition, and implements of war to other countries as and when they may become involved in such war.

(d) When in the judgment of the President the conditions which have caused him to issue a proclamation have ceased to exist, he shall revoke the same and the provisions of this section shall thereupon cease to apply.

EXPORT OF ARTICLES AND MATERIALS USED FOR WAR PURPOSES

SEC. 4. (a) Whenever, during any war in which the United States is neutral, the President shall find that the placing of restrictions on the shipment from the United States to belligerent countries of certain articles or materials used in the manufacture of arms, ammunition, or implements of war, or in the conduct of war, will serve to promote the security and preserve the neutrality of the United States, or to protect the lives and commerce of nationals of the United States, or that to refrain from placing such restrictions would contribute to a prolongation or expansion of the war and shall so proclaim, it shall thereafter be unlawful to export, or attempt to export, or cause to be exported, or sell for export, such articles or materials from any place in the United States to any belligerent country named in the proclamation, or to any neutral country for transshipment to or for the use of any such belligerent country in excess of a normal amount, in quantity and kind, of exports from the United States to the respective belligerent countries prior to the date of the proclamation, such normal amount to constitute the average of shipments during a previous period of years to be determined by the President: *Provided*, That no restriction or prohibition imposed under this section shall under any circumstances be applied to food or medical supplies.

(b) The President shall, by proclamation, definitely enumerate the articles or materials the exportation of which is to be restricted, and he may, from time to time, modify or revoke in whole or in part any proclamation issued by him under this section when he shall find that the conditions which caused him to issue his proclamation have ceased to exist or have so changed as to justify in his opinion such modification or revocation.

(c) The President shall, from time to time, by proclamation, extend such restrictions as are imposed under this section to other countries as and when they may become involved in such war.

FINANCIAL TRANSACTIONS WITH BELLIGERENT GOVERNMENTS

SEC. 5. (a) Whenever the President shall have issued his proclamation as provided for in section 3 of this Act, it shall thereafter during the period of the war be unlawful for any person within the United States to purchase or sell bonds, securities, or other obligations of the government of any belligerent country, or of any political subdivision thereof, or of any person acting for or on behalf of such government, issued after the date of such proclamation, or to make any loan or extend any credit to any such government or person: *Provided*, That if the President shall find that such action will serve to protect the commercial or other interests of the United States or its nationals, he may, in his discretion, and to such extent and under such regulations as he may prescribe, except from the operation of this section ordinary commercial credits and short-time obligations in aid of legal transactions and of a character customarily used in current commercial business.

(b) The provisions of this section shall not apply to a renewal or adjustment of indebtedness existing on the date of the President's proclamation.

(c) Whoever shall violate the provisions of this section or of any regulations issued hereunder shall, upon conviction thereof, be fined not more than \$10,000, or imprisoned for not more than five years, or both. Should the violation be by a corporation, organization or association, any officer or agent thereof participating in the violation shall be liable to the penalty herein prescribed.

(d) When the President shall have revoked his proclamation as provided for in section 3 of this Act, the provisions of this section and of any regulations issued by the President hereunder shall thereupon cease to apply.

EQUAL APPLICATION OF EMBARGOES, AND SO FORTH

SEC. 6. Any embargo, prohibition, or restriction that may be imposed by or under the provisions of sections 3, 4, or 5 of this Act shall apply equally to all belligerents, unless the Congress, with the approval of the President, shall declare otherwise.

AMERICAN VESSELS PROHIBITED FROM CARRYING ARMS, AND SO FORTH

SEC. 7. (a) Whenever the President shall have issued a proclamation as provided for in section 3 of this Act it shall thereafter be unlawful for any American vessel to carry arms, ammunition, or implements of war to any belligerent country named therein, or to any neutral country for transshipment to, or for the use of, such belligerent country.

(b) If the President shall find that the maintenance of peace between the United States and foreign nations, or the protection of the commercial interests of the United States and its nationals, or the security or neutrality of the United States would be promoted by prohibiting American vessels from carrying any of the articles or materials enumerated in any proclamation issued by him under section 4 of this Act and shall so proclaim, it shall thereafter be unlawful for any American vessel to carry any such articles or materials from any place in the United States to any belligerent country, or to any neutral country for transshipment to or for the use of any belligerent country.

(c) The President may, from time to time, modify or revoke in whole or in part any proclamation issued by him under paragraph (b) of this section.

(d) When in the judgment of the President the conditions which have caused him to issue his proclamation have ceased to exist, he shall revoke the same and the provisions of this section shall thereupon cease to apply.

PENALTIES FOR VIOLATION OF SECTION 3, 4, 7, OR 13

SEC. 8. (a) Whoever, in violation of any of the provisions of section 3, 4, 7, or 13 of this Act shall export, or attempt to export, or cause to be exported, or sell for export, arms, ammunition, implements of war, or other articles or materials enumerated in a proclamation by the President, or shall take, attempt to take, or shall authorize, hire, or solicit another to take any vessel or vehicle carrying such cargo out of a port or from the jurisdiction of the United States, shall be fined not more than \$10,000 or imprisoned not more than five years, or both; and, in addition, such vessel or vehicle, her tackle, apparel, furniture, equipment, and such part of the property or cargo as is covered by the proclamation shall be subject to the provisions of sections 1 to 8, inclusive, title 6, chapter 30, of the Act approved June 15, 1917 (40 Stat. 223-225; U. S. C., title 22, secs. 238-245).

(b) In the case of the forfeiture of any arms, ammunition, or implements of war, by reason of a violation of this Act, no public or private sale shall be required, but such arms, ammunition, or implements of war shall be delivered to the Secretary of War for such use or disposal thereof as shall be approved by the President.

TRANSACTIONS WITH BELLIGERENTS

SEC. 9. Whenever, during any war in which the United States is neutral, the President shall find that the maintenance of peace between the United States and foreign nations, or the protection of the commercial interests of the United States and its nationals, or the security or neutrality of the United States would be promoted by requiring nationals of the United States to assume the risk of commercial transactions with the governments or nationals of belligerent countries, or persons residing therein, and shall so proclaim, thereafter American nationals who engage in such transactions shall do so at their own risk.

TRAVEL BY AMERICAN NATIONALS ON BELLIGERENT VESSELS

SEC. 10. (a) Whenever the President shall have issued his proclamation as provided for in section 3 of this Act, thereafter no national of the United States shall travel on any vessel of any belligerent nation except at his own

risk, unless in accordance with such rules and regulations as the President shall prescribe. No passport issued by the Secretary of State or anyone acting under his authority shall be valid for use by any person for travel from the United States on any such vessel.

(b) The provisions of this section shall not apply to a national whose voyage on a vessel of a belligerent was begun in advance of the date on the President's proclamation, and who had no opportunity to discontinue the voyage after that date; nor shall they apply under ninety days after the date of the President's proclamation to a national returning from a foreign country to the United States.

(c) When the President shall have revoked his proclamation as provided for in section 3 of this Act the provisions of this section and of any regulations issued by the President hereunder shall thereupon cease to apply.

USE OF AMERICAN PORTS AS BASE OF SUPPLY

SEC. 11. (a) Whenever, during any way in which the United States is neutral, the President, or any person thereunto authorized by him, shall have cause to believe that any vessel, domestic or foreign, whether requiring clearance or not, is about to carry out of a port of the United States fuel, arms, ammunition, men, supplies, dispatches, or information to any warship, tender, or supply ship of a belligerent nation, but the evidence is not deemed sufficient to justify forbidding the departure of the vessel as provided for by section 1, title V, chapter 30, of the Act approved June 15, 1917 (40 Stat. 217, 221; U. S. C., title 18, sec. 31), and if, in the President's judgment, such action will serve to maintain peace between the United States and foreign nations, or to protect the commercial interests of the United States and its nationals, or to promote the security or neutrality of the United States, he shall have the power and it shall be his duty to require the owner, master, or person in command thereof, before departing from a port of the United States, to give a bond to the United States, with sufficient sureties, in such amount as he shall deem proper, conditioned that the vessel will not deliver the men, dispatches, information, or any part of the cargo, to any warship, tender or supply ship of a belligerent nation.

(b) If the President, or any person thereunto authorized by him, shall find that a vessel, domestic or foreign, in a port of the United States, has previously cleared from a port of the United States during such war and delivered its cargo or any part thereof to a warship, tender, or supply ship of a belligerent nation, he may prohibit the departure of such vessel during the duration of the war.

SUBMARINES PROHIBITED FROM ENTERING AMERICAN WATERS

SEC. 12. (a) Whenever, during any way in which the United States is neutral, the President shall find that the placing of special restrictions on the use of the ports and territorial waters of the United States by submarines of belligerent nations will serve to maintain peace between the United States and foreign nations, or to protect the commercial interests of the United States and its nationals, or to promote the security or neutrality of the United States, and shall so proclaim, it shall thereafter be unlawful for any such submarine to enter a port of the territorial waters of the United States, or to depart therefrom, except under such conditions and subject to such limitations as the President may prescribe.

(b) When, in the judgment of the President, the conditions which have caused him to issue his proclamation have ceased to exist, he shall revoke the same and the provisions of this section shall thereupon cease to apply.

NATIONAL MUNITIONS CONTROL BOARD

SEC. 13. Section 2 of the joint resolution (Public Resolution Numbered 67, Seventy-fourth Congress) approved August 31, 1935, is hereby amended to read as follows:

"(a) The National Munitions Control Board which is hereby established shall consist of the Secretary of State, who shall be chairman and executive officer of the Board, the Secretary of the Treasury, the Secretary of War, the Secretary of the Navy, and the Secretary of Commerce. Except as otherwise provided in this section or by other law, the administration of this section is vested in the Department of State.

"(b) The President is hereby authorized to proclaim, upon recommendation of the Board from time to time, a list of articles which shall be considered arms, ammunition, and implements of war for the purposes of this section.

"(c) Every person who engages in the business of manufacturing for export, exporting or importing any of the arms, ammunition, or implements of war referred to in paragraph (b) of this section, whether as an exporter, importer, manufacturer, or dealer, shall register with the Secretary of State his name, or style, principal place of business, and places of business in the United States, and a list of the arms, ammunition, and implements of war which he exports, imports, or manufactures for export.

"(d) Every person required to register under the provisions of this section shall pay a registration fee of \$500 and upon receipt of such fee the Secretary of State shall issue a registration certificate valid for five years, which shall be renewable for further periods of five years, upon the payment for each renewal of a fee of \$500.

"(e) Every person required to register under this section shall notify the Secretary of State of any change in the arms, ammunition, or implements of war which he exports, imports, or manufactures for export; and upon such notification the Secretary of State shall issue to such person an amended certificate of registration, free of charge, which shall remain valid until the date of expiration of the original certificate.

"(f) It shall be unlawful for any person required to register under the provisions of this section to import or export any of the arms, ammunition, or implements of war referred to in paragraph (b) of this section without having registered in accordance with the provisions of this section.

"(g) It shall be unlawful for any person to export, or attempt to export, from the United States any of the arms, ammunition, or implements of war referred to in paragraph (b) of this section to any other country, or to import, or attempt to import, to the United States from any other country any of the arms, ammunition, or implements of war referred to in said paragraph (b), without first having obtained a license therefor from the Department of State for each shipment.

"(h) Export and import licenses shall be issued to persons who have registered as herein provided for, except in cases where the exportation of arms, ammunition, or implements of war would be in violation of this section or any other law of the United States, or of a treaty to which the United States is a party, in which cases such licenses shall not be issued: *Provided, however*, That after the ninetieth day following the effective date of this Act no export licenses shall be issued unless the government of the country to which such arms are to be exported has indicated to the satisfaction of the Secretary of State that permission for the importation has been accorded: *And provided further*, That after the ninetieth day following the effective date of this Act no licenses shall be issued for the export of appliances and substances exclusively intended for chemical warfare.

"(i) The Secretary of State shall issue regulations for carrying out the provisions of this section.

"(j) The Board shall be called into session by the chairman and shall hold at least one meeting a year.

"(k) No purchase of arms, ammunition, or implements of war shall be made on behalf of the United States by any officer, executive department, or independent establishment of the Government from any person who shall have failed to register under the provisions of paragraph (c) of this section.

"(l) Any contract in violation of the provisions of paragraph (k) of this section is hereby declared to be contrary to the public policy of the United States, shall not be enforceable in any court of the United States, and shall not afford any basis for the granting of legal or equitable relief by any such court.

"(m) No sale of the arms, ammunition, or implements of war referred to in paragraph (b) of this section shall be made on behalf of the United States by any officer, executive department, or independent establishment of the Government to any foreign government on or after November 29, 1938. The provisions of the Act of August 29, 1916, relating to the sale of ordnance and stores to the Government of Cuba (39 Stat. 619, 643; U. S. C., title 50, sec. 72), are hereby abrogated as of November 29, 1938.

"(n) All persons required to register under this section shall maintain, subject to the inspection of the Secretary of State, such permanent records of manufacture for export, importation, and exportation of arms, ammunition, and implements of war as he shall prescribe.

"(o) Any person who violates or fails to comply with any of the requirements of this section or any regulations issued under this section shall, on conviction, be fined not more than \$10,000 or be imprisoned for not more than five years, or both, in the discretion of the court.

"(p) The Board shall make an annual report to Congress, copies of which shall be distributed as are other reports transmitted to Congress. Such report shall contain such information and data collected by the Board as may be considered of value in the determination of questions in connection with the control of trade in arms, ammunition, and implements of war. It shall include a list of all persons required to register under the provisions of this section and full information concerning the licenses issued under the provisions of this section.

"(q) Such amount as may from time to time be deemed necessary is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, to be expended by the Secretary of State in carrying out the duties as aforesaid and in defraying the expenses of the Board in discharging the duties placed upon it by this section."

REGULATIONS BY THE PRESIDENT

SEC. 14. The President may, from time to time, promulgate such rules and regulations, not inconsistent with law, as may be necessary and proper to carry out any of the provisions of this Act; and he may exercise any power or authority conferred on him by this Act through such officer or officers, or agency or agencies, as he shall direct.

APPLICATION OF PROVISIONS OF THIS ACT

SEC. 15. If any of the provisions of this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of the Act, and the application of such provision to other persons or circumstances, shall not be affected thereby.

MODIFICATION OR TERMINATION OF TREATIES

SEC. 16. (a) If the President shall find that any of the provisions of this Act, if applied, would contravene treaty provisions in force between the United States and any foreign country, he may enter into negotiations with the government of such country for the purpose of effecting such modification of the treaty provisions as may be necessary, and if he shall be unable to bring about the necessary modifications, he may in his discretion give notice of termination of the treaty.

(b) Except to the extent that the law and rules of neutrality are or may be temporarily or provisionally modified by or under authority of this Act the United States reserves and reaffirms its rights under international law as it existed prior to August 1, 1914.

REPEAL OF JOINT RESOLUTION OF AUGUST 31, 1935

SEC. 17. Section 1 and sections 3 to 9, inclusive, of the joint resolution (Public Resolution Numbered 67, Seventy-fourth Congress) approved August 31, 1935, are hereby repealed, but such repeal shall not affect any proclamation issued by the President pursuant to that resolution. Any such proclamation shall remain effective until revoked in accordance with the corresponding provisions of the present Act.

AUTHORIZATION FOR APPROPRIATION

SEC. 18. There is hereby authorized to be appropriated from time to time, out of any money in the Treasury not otherwise appropriated, such amounts as may be necessary to carry out the provisions and accomplish the purposes of this Act.

STATEMENTS OF HON. R. WALTON MOORE, ASSISTANT SECRETARY OF STATE, AND GREEN H. HACKWORTH, LEGAL ADVISER, DEPARTMENT OF STATE

The CHAIRMAN. I want the gentleman from Fairfax to note that we have a very full attendance in our committee this morning. They knew you were coming.

Mr. MOORE. I am very glad to meet Mrs. Rogers and you gentlemen.

The CHAIRMAN. I will state that we were discussing informally just before you came, Mr. Moore, House Joint Resolution 422. We have gone over the first section, and the only question in dispute was a suggestion made by Mr. Tinkham relative to section 3:

Upon the outbreak or during the progress of any war * * *.

We have had some little discussion about that, and there was an attempt on the part of some of us to explain the reason for that language. Mr. Tinkham, do you wish any further discussion about that?

Mr. TINKHAM. Yes. I should like to make a statement, now that Mr. Moore is here, that I have already made to the committee. Mr. Moore, if the President is given discretion to wait until after a war has started to declare an embargo he might wait 6 months. That presents a danger. Let us take, as an example, the present situation, in relation to the contest in the Mediterranean between England and Italy. England, being in command of the seas, could come here and get what she wanted or what she thought she might want. Italy would be prevented from doing so because of England's command of the seas.

The President might not declare an embargo until sometime after hostilities had begun. According to the wording of that section, the President could delay doing so if he wished to. It seems to me we should have in this resolution, as we did in previous legislation, language providing that an embargo should be placed upon the outbreak of war; the word "shall" would be better. That is, that the President shall declare an embargo against both parties "upon the outbreak of any war", and not "during the progress of any war." That is my point.

Mr. JOHNSON. The suggestion is to eliminate the words, "during the progress", as I understand it.

Mr. MOORE. As I understand the bill before the committee with respect to the point that Mr. Tinkham has raised, the bill follows the existing legislation which declares that at the outbreak or during the progress of any war the President shall proclaim, so and so. There is no change in that regard from the present legislation.

When that legislation was enacted, it was assumed that the President would not delay in any such manner as Mr. Tinkham has suggested. He has not thought that he had authority to delay, and I can say with the utmost confidence that is the interpretation placed upon that language by the present Executive.

The CHAIRMAN. And the State Department?

Mr. MOORE. And the State Department. He would not believe that when a war actually occurred, he would have any authority to

defer action for 6 months or a year, or 2 years, or any other period of time; but that he would be under an obligation to act promptly.

The reason for putting in, in addition to the language, "upon the outbreak, during the progress of any war", is this: That often it is so extremely difficult to determine when an outbreak actually takes place; that is, the exact date of the outbreak of hostilities.

Therefore, it was thought best, as I understand it, by the House and by the Senate, to enlarge the language somewhat in order not to compel an Executive to do what might often be impossible, to indicate the time when there is an outbreak. I think any common-sense view of the matter will indicate the force of that suggestion.

You take, for example, the present brawl going on between Italy and Ethiopia. There were all sorts of opinions and suggestions made on the other side of the ocean as to when that war began. There were skirmishes on the border, and a President now, or a President hereafter, looking at occurrences of that kind, might be in extreme doubt as to whether a war had actually begun; as to whether there had been an outbreak.

But when something further occurs, if hostilities become more or less flagrant, and there is no doubt that a war is in progress, then there rests upon the Executive, under the language of the present law—and would rest upon him under the language of the proposed legislation—the duty to make his proclamation.

Mr. MARTIN. If I may interrupt right at that point, what would be the harm, even if there were hostilities, of providing for the prevention of the shipment of arms and munitions? This particular clause applies only to munitions of war.

Mr. TINKHAM. We are discussing the whole thing now.

Mr. MARTIN. As I understand, we are on section 3.

Mr. MOORE. We are on the first vital section.

Mr. MARTIN. That is section 3?

Mr. MOORE. Yes.

Mr. MARTIN. As a matter of fact, we do not send very much munitions or arms abroad. Our shipments are very negligible, as a rule.

Mr. MOORE. The answer to that would be, I think, that none of us have any desire to facilitate or permit the shipment of the articles specified when a war really occurs. But you can conceive that it would be rather absurd, when there is some trouble going on that does not amount to a war, for some executive to say that war has broken out, and to make a proclamation and set in motion all the machinery that is provided.

As a practical matter, if you can assume as a premise what I have stated, I cannot conceive that any President responding to the desire of Congress, would hesitate a minute when he finds that there is really a war going on.

Let us take an illustrative case that we might all refer to. Let us take the case of the Civil War, when something happened at Fort Sumter; whether or not it was going to lead to a war nobody could forecast, and therefore nobody could say that there had been an outbreak of war, although there had been firing, there had been a surrender of a force to an opposing force.

In an instance of that sort, if it occurred abroad, it seems to me it would be rather silly for the President of the United States to be

expected, just upon that sort of a showing, to say that war had broken out and therefore the law should come into operation forthwith.

Mr. MARTIN. You do not think that we ought to continue to allow the shipment of munitions, so that that outbreak could spread, do you?

Mr. MOORE. I am not arguing that. What I am saying all the time is that when there is a real war that has broken out, or is in progress, then under this legislation it would be the business of the Executive to act, and to act promptly.

The CHAIRMAN. May I suggest this? The gentleman seems to be disturbed about the present war; whether, if others get in, there should be an embargo proclaimed on England or France or any nation that does come in.

I invite your attention to paragraph (c) on page 3, which reads:

The President shall, from time to time, by proclamation, extend such embargo upon the export of arms, ammunition, and implements of war to other countries as and when they may become involved in such war.

If there already is a war going on, and if these other countries become involved, it is the President's direct duty, under section (c), to make a proclamation. He is to do it as and when they become involved.

Mr. EATON. The progress of the war would include its outbreak, anyway.

The CHAIRMAN. That is true.

Mr. JOHNSON. Mr. Chairman, this question occurs to me and I would like to ask Judge Moore's opinion, not only as a representative of the State Department, but his legal opinion. The existing law contains language that "upon the outbreak or during the progress of any war * * *." If this bill amends the existing law by striking from the language of the act "or during the progress of any war", leaving it "upon the outbreak", that would necessarily mean that the legislative intent was that the only authority the President should have with reference to the issuance of a proclamation would be upon the outbreak and not afterward.

Now, suppose the President should not proclaim an embargo upon the outbreak, but should proclaim an embargo later; then some munitions manufacturer would bring a suit, claiming that the President's authority did not extend beyond the date of the outbreak, as indicated by this other law; would there not be raised some question as to whether or not the President had the authority to act after the outbreak?

The CHAIRMAN. The point being that the President did not act at the outbreak; and there might be a dispute as to when the outbreak actually occurred.

Mr. JOHNSON. Yes.

Mr. CASTELLOW. May I offer this suggestion, Mr. Chairman? Would not a change in the language of the present act meet Mr. Tinkham's objection, in this way—

"* * * or as soon after the passage of this act as it becomes apparent that a state of war exists."

It occurs to me that would eliminate the criticism offered by Mr. Tinkham and would accomplish exactly what this act proposes to accomplish.

That language would make it mandatory upon the President, as soon as it reached his knowledge that a state of war exists, to issue his proclamation.

That would meet the objection that has been urged against the language, as it now appears in the act.

Mr. MOORE. It seems to me that it is so perfectly clear what the law means as it is now written—and is simply proposed to reenact it—that it would be undesirable to change the language unless there is an urgent reason for doing so, and I cannot perceive any such reason.

Mr. TINKHAM. Mr. Chairman, may I make this statement? If we retain the language, "upon the outbreak", we give the President complete authority; we give him the option of saying when he considers war has broken out.

If, on the other hand, we say, "during the progress of any war", we give him the right to postpone action indefinitely, and he can base his defense in delaying action on the language of the statute. He need not declare that war has broken out until he wishes to.

In other words, the President has a clear option here. Today no country makes a declaration of war, because of the Kellogg Pact. He can say when he thinks there is a state of war.

The CHAIRMAN. Does he not have to do that, anyway?

Mr. TINKHAM. He can determine when there is a state of war.

The CHAIRMAN. But he always has to do that.

Mr. TINKHAM. Yes; he always has to do that; that is right. But once he has declared that war is an actuality, an embargo must be declared at once if you eliminate the words "during the progress of any war." If these words are retained, the President is given the right to postpone that action indefinitely, and he can point to the law as authority to postpone it, whereas our intent and purpose should be that he shall act as soon as he determines that war has broken out.

I have already pointed out, I believe, what England could do in such circumstances in the present situation because of her control of the seas.

The CHAIRMAN. But paragraph (c) controls that, as I pointed out a few moments ago. I do not know whether you listened to that or not, Mr. Tinkham.

Mr. TINKHAM. Yes; I did.

The CHAIRMAN. That absolutely controls the present situation.

Mr. FISH. Mr. Chairman, Mr. Moore seems to be under the apprehension that there is no conflict or dispute as to the meaning of these words. There is no use quibbling about this part of the bill. It is one of the important features and has to be decided one way or the other. The public press, even, has taken cognizance of it, and has intimated that the very purpose of this wording that we are discussing is to give the President that power to delay stating when war has broken out, and therefore to delay putting into effect this embargo so that he could, if he wished, permit the shipment of arms and munitions of war to England, let us say, in case of certain emergencies.

We have to face the facts, whether we shall have it say exactly what we want it to mean or whether we want to give the President that power to determine that point for himself.

We do not have to decide that now. We are only asking Mr. Moore to give his views on the bill.

I like the amendment suggested by the gentleman from Georgia [Mr. CASTELLOW] a few moments ago. I think that should be discussed, as we go along with our discussion of the bill.

Mr. MOORE. I would like to say this in answer to what Mr. Fish has just said. While we have been studying this question, we have been submerged by views from every part of the country; professors and other students and laymen who are thinking over the subject for the first time, have communicated their views to us.

I have never had any intimation from any of them that the language of the existing statute was open to any doubt at all as to its meaning.

Mr. TINKHAM. Mr. Chairman, I have a communication here from Professor Borchard. I have not read the whole of it, as I have just received it, but he raised that point as the first point of his criticism. And there is no clearer-headed man than Professor Borchard in foreign affairs matters.

The CHAIRMAN. Does he have anything to say about paragraph (c)?

Mr. TINKHAM. I have not read the whole of it, as I have just said but I have read far enough to know that he takes exception to section 3 (a) of the bill.

Mr. MOORE. I know Professor Borchard very intimately and I have had considerable correspondence with him since this study started. It is the first time, so far as I recall, that I have had any intimation that Professor Borchard thinks that there is any ambiguity at all in that language.

Mr. GRAY. May I ask the witness a question, Mr. Chairman?

The CHAIRMAN. Of course.

Mr. GRAY. Will you tell the committee what would be the effect of striking out the word "or" in that first line of section 3 and substituting the word "and"?

Mr. BLOOM. To make it read, "and during the progress."

Mr. MOORE. It does not seem to me that that would improve the section at all, so far as its meaning is concerned.

Mr. BLOOM. If you use the word "and", would not that mean that he would have to issue a proclamation twice; at least, more than once?

The CHAIRMAN. Yes; at the outbreak and also during the progress.

Mr. BLOOM. That is the point that I am making.

Mr. GRAY. It would not leave any discretion; that is what I had in mind. In other words, if, through any inadvertence or oversight, he had not declared the embargo at the outbreak, he would declare it during the progress. But it would not relieve him from the responsibility of making the declaration at the outbreak or during the progress. It would seem to me that it would overcome Mr. Tinkham's objection and at the same time it would give the President some leeway, too. In other words, if there was an oversight at the outbreak, he could make the proclamation during the progress.

Mr. MOORE. Some very legalistic people—and there are a good many of them, as you know—might say that that should be construed as to require two proclamations.

Mr. BLOOM. That is the point that I had in mind.

Mr. JOHNSON. That is correct.

Mr. TINKHAM. Now, Mr. Moore, you say that Mr. Borchard has never taken any exception to this language. I take it that that is absolutely true, so far as his correspondence with you is concerned. But here is his statement prepared yesterday, presumably, and received by me this morning. As I have already said, I have not read the whole of it, but as to section 3 (a) he says that if we must have an arms embargo, or embargoes, they should apply automatically upon the proclamation of the President that war exists and not during the progress of any war. In other words, "during the progress" gives considerable Executive discretion possibly not here intended.

Mr. MOORE. What I understand he wants would be a provision to this effect, that when the President proclaims that war exists—

Mr. TINKHAM. Exactly.

Mr. MOORE. That leaves it to him to proclaim or not to proclaim.

Mr. TINKHAM. Exactly.

Mr. MOORE. In other words, you want to give the President further flexibility, or further discretion. Mr. Borchard would indicate that he is to have unlimited discretion; that he could or not, as he pleased.

Mr. TINKHAM. I wish the President to have discretion to determine when war is an actuality, but I do not wish him to have discretion to declare an embargo at any time he wishes during the progress of a war.

Mr. MOORE. That is not the intent of Congress.

Mr. TINKHAM. Let us make it the intent of Congress that an embargo shall be placed immediately that the President has declared that a state of war exists.

Mr. MOORE. You are in favor of one thing, Mr. Tinkham, and Mr. Borchard is in favor of another. Mr. Borchard is in favor of the declaration to the effect that whenever the President shall proclaim that war exists, an embargo automatically apply. If you write it that way, the President may never proclaim that war exists. He may say, "I have no moral duty to proclaim that."

Mr. TINKHAM. I think the President should have discretion to determine when war exists; then I think an embargo should apply automatically.

Mr. MOORE. I think Mr. Borchard's suggestion, if adopted, would defeat public sentiment and defeat the sentiment of Congress.

Mr. TINKHAM. Why?

Mr. MOORE. It would destroy the present act. It would give the President discretionary power to proclaim that war exists.

Mr. JOHNSON. Under the existing law, when war exists, the President would have no discretion. He would have to make his proclamation.

Mr. TINKHAM. Let us see how this reads. "Upon the outbreak or during the progress of any war * * *." I have no objection to the first part, "Upon the outbreak", the President to determine when the outbreak occurs.

Mr. MOORE. I am talking now not about your proposal but about Mr. Borchard's proposal. I am showing how—I would not use the word "absurd", but how inconsistent with the general intent is Mr. Borchard's proposal.

Mr. LAMBETH. In other words, that suggestion would require a change of language in the first sentence to read substantially that "when in the judgment of the President war has broken out", and so forth.

The CHAIRMAN. Gentlemen, let us proceed.

Mr. TINKHAM. Mr. Chairman, may I just continue on this point for a moment, because this is one of the vital points, in my opinion.

We are drawing this bill not only for the guidance of the present Executive, but for any President who may succeed as long as this statute remains upon the books. Let us not forget that. It is not the present President's interpretation which is solely involved, but the interpretation of any Executive who may occupy that office while the legislation is in effect.

Mr. GILLETTE. I would like to ask one question with reference to this section, Mr. Chairman, if I may. Let us assume that before the proclamation was issued there were several countries involved—more than two countries. What about the suggestion of making it unlawful to ship implements of war to any belligerent country named in the proclamation? Would that give, in your judgment, Mr. Moore, discretion to the President to eliminate some country from the provisions of the embargo?

Mr. MOORE. No; because there is a subsequent section of the bill that provides that the application of the embargo shall be impartial.

Mr. JOHNSON. Shall apply to all.

Mr. MOORE. Shall apply to all countries; yes.

Mr. GILLETTE. That is taken care of further along in the bill?

Mr. MOORE. Yes.

Mr. EATON. This section says, Mr. Chairman—

upon the outbreak or during the progress of any war between, or among, two or more foreign States, the President shall proclaim such fact, * * *."

In other words, during the progress of the war he must issue another proclamation, as other countries come in.

The CHAIRMAN. Yes.

Mr. EATON. Not only at the outbreak, but during the progress.

The CHAIRMAN. Paragraph (c) says:

The President shall, from time to time, by proclamation, extend such embargo upon the export of arms, ammunition, and implements of war to other countries as and when they may become involved in such war.

Mr. EATON. And that is during the progress of the war.

The CHAIRMAN. That is a good point.

Mr. MOORE. I think Dr. Eaton's remark emphasizes the suggestion I have been trying to make.

The CHAIRMAN. In other words, if, during the progress of the war, other countries become involved, he shall issue another proclamation.

Mr. EATON. But he cannot do that except he does it during the progress of the war.

The CHAIRMAN. Shall we proceed to section 4?

Mrs. ROGERS. Mr. Chairman, may I ask a question? Any time the President wants to, he may revoke that proclamation?

The CHAIRMAN. Certainly; that is, after the war is over.

Mrs. ROGERS. But he might do it before that.

The CHAIRMAN. Well, the President might send a battleship to some part of the world and have us in a war tomorrow morning, if he wanted to. But the purpose of that, Mrs. Rogers, is that he shall have the authority; somebody must have the authority to revoke the proclamation when war is over.

Mr. MOORE. Mrs. Rogers, you remember when you and I were in Congress together, there was great doubt as to when war did end between this country and Germany.

The President has found that there is an outbreak of war or war in progress. That is his finding. Those are the conditions that he finds and here in this subsection (d) it is declared:

When in the judgment of the President the conditions which have caused him to issue a proclamation have ceased to exist, he shall revoke the same and the provisions of this section shall therefore cease to apply."

That is, that war no longer is in progress. In other words, if you undertake to say when the war terminates, you will be involved in the same dispute that you and I remember took place as to when the war between this country and Germany terminated.

Mrs. ROGERS. I still think it gives him a lot of power.

Mr. MOORE. If you were President, Mrs. Rogers, I would trust you absolutely!

The CHAIRMAN. Gentlemen, if there are no further questions on this section, we will pass to section 4, which concerns the export of articles or materials used for war purposes.

Mr. MOORE. Are there any questions with reference to that section, Mr. Chairman?

Mr. TINKHAM. Plenty.

Mr. MARTIN. Why not explain it briefly first, Mr. Moore.

Mr. MOORE. The thought was, that in addition to doing what Congress did at the last session, there should be authorized a restriction upon the export of articles that are usable for war purposes or can be converted into use readily for war purposes.

Therefore, the provision is that when the President finds that the placing of such restrictions will serve certain ends, he shall be authorized to make a proclamation to that effect and thereafter it shall be unlawful to export the articles specified to the extent indicated. Of course, the application will be, to countries that subsequently enter the war, and, under a second section, shall apply impartially to all belligerents.

Mr. SHANLEY. That is after an outbreak, is it not, Judge?

Mr. MOORE. Yes.

Mr. CHRISTIANSON. Mr. Chairman, I wanted to ask this question: Do you not feel there is a real danger that the exercise of this discretion against any belligerent may involve us in controversy? It seems to me that the strength of the neutrality legislation we passed at the last session was that it passed while there was no war anywhere in the world. It could not be interpreted as hostile to any nation in the world. But if we should pass a bill giving this discretion to the President of the United States, and the President should exercise that discretion by forbidding, for instance, the exportation

of oil which Ethiopia, by reason of her geographical position, as well as other reasons is unable to get anyway, but which is accessible to Italy, Italy would not only declare it to be an unfriendly act, but it might eventuate in our involvement in a European conflict.

Mr. MOORE. Now, Mr. Governor, in consideration of the question we had to determine whether to write a bill giving authority to prescribe an absolute embargo or not. The thought was that if the authority were given to prescribe an absolute embargo, and that embargo should be made applicable to oil, for instance, we might involve ourselves in the way that you suggest; in the present case, we might involve ourselves with Italy. Italy might come to us and say, "That is an unfriendly act, and we are going to make it a cause for war." All that is done in this section is to give authority to restrict shipments to the normal volume. And that is something that we do not believe any nation has a right to object to.

We thought, at the same time, that so far as this country is concerned, it would contribute to avoid our being involved in war and it would meet the desire to restrain war profiteering to keep the volume of shipments down to normal.

And that is exactly in line with what the administration has announced as its policy in the present situation.

Mr. KLOEB. May I interrupt just there? The language in the section says [reading]:

* * * articles or materials used in the manufacture of arms, ammunition, or implements of war, * * *

Mr. TINKHAM. No; read on a little further.

Mr. CHRISTIANSON. "* * * or in the conduct of war." That would include wheat or pork.

Mr. EATON. How are you going to determine whether any of these neutral nations, to whom we might send any of these articles, are going to transship to belligerents?

Mr. MOORE. Dr. Eaton, of course, it is humanly impossible, in every case, to reach that decision. All that the Government could do, in the matter of administration, would be the very best possible under the circumstances.

I may say that there have been people suggesting that section 3 should be made to correspond with section 2; that there should be declared an absolute embargo on the things that can be used in the conduct of war, particularly oil. But we believe that to take the intermediate course and restrict shipments to the normal volume will help to keep us out of war. It would not be something that other nations could complain of and at the same time would prevent our commerce from being put in a vacuum—in a storm cellar.

Mr. CASTELLOW. How would you apportion this normal volume amongst the various companies doing business in that product?

Mr. MOORE. It would have to be done under rules and regulations prescribed by the President. I do not believe the people of this country would be willing to say that when a war breaks out anywhere, we are going to take our commerce off the seas. I do not believe you would get any favorable response from the people of this country on a policy of that kind.

Mr. CALDWELL. Would an unneutral act be ascribed to us in the event we shipped oil to a neutral country, under the assumption that it would not be transshipped, when, as a matter of fact, it was?

Mr. MOORE. No; we could not be chargeable with any offense there, because we would be able to show, under the rules and regulations that have been prescribed, that we were doing the best we knew how to prevent reshipment to a belligerent.

Mr. SHANLEY. As long as it goes into their general stock?

Mr. MOORE. Yes.

Mr. SHANLEY. Even though there is a possibility of reshipment.

Mr. MOORE. Yes.

Mr. SHANLEY. Why not make this second proclamation, in section 4, at the outbreak of war, instead of waiting for some intermediate time? Why not say that immediately on the outbreak of war the President shall place an additional embargo on these articles and materials?

Mr. MOORE. The future is so unpredictable. You cannot forecast in what particular case it would be desirable for him to cut our commerce down. In some instances he might find it desirable to reduce our commerce at the outbreak of war. But the conditions might be such that that would be highly undesirable from the point of view of all of our interests; as to avoiding being involved in the war and as to protecting our commerce.

Mr. SHANLEY. You believe there is an intermediate or second proclamation necessary in the discretion of the President. You do not believe that it ought to be mandatory to place an embargo on all of these so-called articles and materials which, in a sense, either constitute munitions or are the so-called key materials in a war?

Mr. MOORE. I think it would be highly undesirable.

The CHAIRMAN. Are there any further questions on this section?

Mr. TINKHAM. Mr. Chairman, if I may: Mr. Moore, here is what I object to. I refer you to page 3, line 24, the language reading—

or that to refrain from placing such restrictions would contribute to a prolongation or expansion of the war * * *

I do not think we have any business whatsoever to intervene, outside of our own borders, and try to prevent a war. The essence of that policy is that we intervene in foreign political affairs, which is the very thing that in my opinion the American people do not want and will not permit. It can lead only to involvement. So far as I am concerned, it is of the essence.

Mr. MOORE. It is of the essence with me. I think it is our moral and political duty to do what we can, without implicating ourselves in a war, to pursue a policy that will tend to prevent the protraction and the prolongation of war. And that is the view that the Secretary of State has often stated, with a great deal of emphasis.

I am not so afraid of being charged with trying to assist other nations by using that language.

Mr. TINKHAM. Let us see. The hard, plain, naked fact in relation to that is that we intervene on one side or the other, and become an ally of one side or the other, with all of its implications.

The CHAIRMAN. No; that is not so.

Mr. JOHNSON. Never.

Mr. MOORE. No, sir. The language of the bill, in this and subsequent portions of it, keeps us away from that. It says that whatever we do shall be done impartially.

Mr. JOHNSON. Shall apply to all nations alike.

Mr. TINKHAM. Yes; but it says that we shall intervene to prevent a war. Let us take the exact case that we have before us. Here are England and Italy involved in a controversy concerning control of the Mediterranean. That is all the contest amounts to, when you come down to the actuality and consider the past history and policy of the British Government. The Department, although it had no authority, attempted to prevent oil shipments to Italy. What was the result? It meant that we were taking sides. Ethiopia did not want any oil or, if she did, she could not get it under any circumstances. Italy could. So that when you attempted to prevent oil from going to Italy, you took sides in that contest against Italy.

It is not neutrality to take sides. In the case I have just cited Italy resented our action and considered that we were unfriendly, and she was justified in doing so.

Now, I do not care anything about Mussolini; I do not like his form of government. The American people do not care for it. But the American people and the Italian people are friendly. We should remain friendly until the Italian people show hostility to us.

This provision is a declaration of an unneutral policy. It denotes an intention to take one side or the other whenever trouble may arise in the world.

And, so far as I am concerned, I will oppose that to the limit. That is not neutrality.

Mr. MOORE. We are trying to enact permanent legislation. As I conceive the logic of your argument, it is that we should have done nothing in this case.

Mr. TINKHAM. We certainly should not have done anything.

Mr. MOORE. Under the section of the Act as it now stands, we should not have done anything, and we should not do anything under this present section that we are considering, if it should be passed. Why? What is your argument? Because it happens that Italy needs oil and can get oil? And Ethiopia cannot? That is an argument that the Italian Ambassador would make.

Are you going to weigh, meticulously, in the balances, the needs and the strength of one belligerent against the other belligerent?

Mr. TINKHAM. We certainly are not, but we must take the facts into consideration and see where they will lead us in relation to people who are situated differently, geographically. Either we want to remain neutral or we do not want to remain neutral. We do not remain neutral if we intervene.

Mr. MOORE. Your argument is against any legislation.

Mr. FISH. You take the position, Mr. Tinkham, that it is an unneutral act if we place economic embargoes on both belligerents?

Mr. TINKHAM. No, I do not; of course.

The CHAIRMAN. May I call your attention to section 6?

Any embargo, prohibition, or restriction that may be imposed by or under the provisions of sections 2, 3, or 4 of this act shall apply equally to all belligerents unless the Congress, with the approval of the President, shall declare otherwise.

Mr. TINKHAM. Yes; but this language does not effect real neutrality. It declares a purpose to impose embargoes for the United States to intervene to prevent the prolongation or expansion of a war. This is a political purpose.

The CHAIRMAN. I think you take a wrong construction of it. It was not so intended. This merely gives the President the right to issue this proclamation, so as to keep us out of war. The embargo is not upon all trade, but upon trade beyond normal volume. No country can complain of that.

Mr. TINKHAM. But read section 4 (a), which says:

Whenever, during any war in which the United States is neutral, the President shall find that the placing of restrictions on the shipment from the United States to belligerent countries of certain articles or materials used in the manufacture of arms, ammunition, or implements of war, or in the conduct of war, will serve to promote the security and preserve the neutrality of the United States—

The CHAIRMAN. That is the first proposition.

Mr. TINKHAM (continuing):

or to protect the lives and commerce of nationals of the United States, or that to refrain from placing such restrictions would contribute to a prolongation or expansion of the war and shall so proclaim, it shall thereafter be unlawful to export,

And so forth. This language gives him exactly the authority which he did not have when he tried to restrict the exportation of oil to the belligerents.

Mr. JOHNSON. That is all hinged upon the first clause in section 4; that is, during any war.

Mr. TINKHAM. That is right.

Mr. JOHNSON. I thought the gentleman was insisting a moment ago that this gave him authority before the outbreak of war. It is all hung upon that one phrase, that when during any war in which the United States is a neutral, the President shall find, and so forth.

What you object to is stating another reason why the President should do this.

Mr. TINKHAM. It gives us the right, in other words, to be un-neutral.

The CHAIRMAN. What will the gentleman from Massachusetts suggest, to leave the provision out?

Mr. TINKHAM. Yes; I do.

Mr. JOHNSON. You do not like the reason, that is all.

Mr. TINKHAM. I do not think that the President should be given authority by legislation to proceed on the theory that he has a right to act to prevent the prolonging or the expansion of a war in which we are a neutral.

The CHAIRMAN. Does Professor Borchard make any suggestion on that, Mr. Tinkham?

Mr. TINKHAM. If you would like me to read it—

The CHAIRMAN. Well, we do not have the time right now.

Mr. TINKHAM. I do not know just what he says on that.

Mr. FISH. Mr. Chairman, it is nearly 12 o'clock and we are approaching the end of our session this morning. We are discussing a highly important matter before this committee. I would suggest that as soon as we finish asking questions of the representatives of the State Department that we have an open hearing; I would suggest that Mr. Tinkham be requested to ask Mr. Borchard here, Mr. John Bassett Moore, and other internationalists who are competent to testify on such a bill as this. Furthermore, that when we meet again, in view of the attendance of the committee, we meet in some

other room where we will have somewhat better circulation than we have here. We could not have very many more people in the room than we have now.

The CHAIRMAN. The committee will take that under advisement as soon as we have finished with the State Department.

Mr. CHRISTIANSON. While Judge Moore is here I would like to ask him a question. You are familiar with the views expressed by Bernard Baruch, that so far as these noncontraband commodities and goods are concerned, we should run what he terms a cash-and-carry store; that we should sell to all belligerents noncontraband goods, but that they shall be required to come here and get the merchandise at their own risk, and pay for it. He made that statement in an article which appeared in Raymond Moley's magazine, about a month ago. I assume that his views are known to the State Department.

Mr. TINKHAM. Who did that?

Mr. CHRISTIANSON. Bernard Baruch.

Mr. MARTIN. That would mean that only England would be able to come here to get any goods.

The CHAIRMAN. The gentleman who first proposed such a plan was Mr. KLOEF at the last session.

Mr. JOHNSON. And he introduced a bill to that effect at the last session.

Mr. CHRISTIANSON. I became familiar with the idea from the article that I have mentioned.

Mr. FISH. Mr. Chairman, I should like to insist on the point that I brought up, that if we are going to have an open meeting, we will have to invite such men as Judge John Bassett Moore, and Professor Borchard, and others, and we cannot call on them on just a few hours' notice.

Mr. JOHNSON. Mr. Chairman, may I suggest that we finish with the witnesses that we have before us now before we take up this other matter?

Mr. FISH. I am bringing it up now, because we have only 5 or 10 minutes to go before we shall have to recess.

The CHAIRMAN. My suggestion is that we meet tomorrow morning at 10 o'clock; have these gentlemen return, and discuss the balance of the bill. Then the committee can determine just what program it wishes to follow.

I think this committee wants to write this bill, and I want the members of the committee to be thoroughly familiar with it and to express their own views concerning it so that when these other witnesses come before the committee, the members of the committee will be able to examine them on the provisions of the bill.

Mr. FISH. I want to make my position very clear on this bill. No Republican as far as I know has been invited to cooperate in the writing of this bill at any time contrary I believe, to the precedent of every former administration and State Department that I know anything about.

I am insisting that after we get through with the State Department, we have an open hearing such as we have always had, and that these well-known internationalists such as Mr. John Bassett Moore, or Professor Borchard, or anyone else whom we see fit, as a

minority, to ask, be invited to present their views either in opposition to the whole bill or to certain phases of it, in an open hearing. That is the regular procedure.

In order to bring that about I think the only thing we can do is to set a certain date, and invite them to be present. Mr. Tinkham, who, more or less is in charge of the opposition, can invite those who are opposed to the bill. These gentlemen are important men and we cannot simply wire them to appear overnight.

My suggestion is that we continue with this hearing tomorrow and then set a certain date—say next Tuesday—on which to have an open hearing, to give those who are opposed to the bill an opportunity to come before the committee and express their views.

Mr. MARTIN. There might be some people in favor of the bill.

The CHAIRMAN. I am very sorry the gentleman thinks there is any politics involved in this.

Mr. TINKHAM. There is none, so far as I am concerned, or so far as I know.

The CHAIRMAN. Certainly, there is not. The chairman would have been glad to have had Mr. Fish in conference with us when we were trying to get the bill in shape. Senator Pittman, chairman of the Foreign Relations Committee and myself, as your chairman, went over this at different times, and expressed our views on the bill. We do not claim that it is perfect, but we tried to bring out the best bill we could, so that the committee might consider it, study it and determine what bill we should finally report.

I do not want any member to think that any one has been slighted. But you must remember, Mr. Fish, that you were in New York making speeches for Senator Borah; you were engaged politically, and we could not get you.

Mr. FISH. Senator Borah and I happen to have been here for the last month or so.

Mr. MARTIN. I think all of us want all the information we can get on both sides.

The CHAIRMAN. May I suggest this? I think we can finish with these gentlemen from the State Department tomorrow. As your chairman, I shall be delighted to invite any one you want to appear before the committee. We are all trying to reach the same end. There may be differences in view as to the construction of language to be used.

If there is no objection, we will fix Thursday morning at 10 o'clock to hear any one whom you wish to invite to be heard.

Mr. TINKHAM. Why not a week from today, Mr. Chairman? This is already Tuesday.

The CHAIRMAN. I hope the committee will agree with me in this, that the best thing we can do is to get through as early as possible. We want to have ample hearings, of course; but we want to get through and put this bill on the calendar. And we want it in such shape that every member of the committee will feel justified in supporting it.

Mr. TINKHAM. But these gentlemen, such as The Honorable John Bassett Moore and Professor Borchard and others, whom we hope to be able to have come before the committee, are not men who can be invited on 8 days' notice; that is the trouble.

The CHAIRMAN. I hope, if they are invited to appear, that they will appear personally and not merely send letters. We want to be able to ask them questions, if they wish to express an opinion on the bill.

Can you get Professor Borchard here by Thursday?

Mr. TINKHAM. I shall try.

The CHAIRMAN. Or any one else you have in mind.

Mr. BLOOM. Yes; for or against the bill.

The CHAIRMAN. First I should like the committee to go over the bill, so that when these other gentlemen appear, we will have in mind what the bill provides.

Mr. MARTIN. I suggest that we go on tomorrow and then arrange when our next meeting shall be.

The CHAIRMAN. We will meet here tomorrow morning at 10 o'clock, gentlemen, and on Thursday we will allow anyone whom you gentlemen designate to appear before the committee. If we do not get through with them in time we will try to prolong the hearings. May I suggest that you do not invite someone who is merely trying to get publicity, but invite those who can give us information. I know that is what Mr. Tinkham has in mind and that that is the kind of witness he will try to bring.

Mr. BLOOM. Mr. Chairman, I would suggest that all of these hearings be in executive session.

The CHAIRMAN. We can determine that later. I should like to thank the members of the committee very much for the full attendance this morning. It shows the interest of the members of the committee, and we are going to need the support of everyone of you gentlemen in order to write this bill.

We will adjourn until tomorrow morning at 10 o'clock.

(Whereupon, an adjournment was taken until Wednesday, Jan. 8, 1936, at 10 a. m.)

AMERICAN NEUTRALITY POLICY

WEDNESDAY, JANUARY 8, 1936

HOUSE OF REPRESENTATIVES,
COMMITTEE ON FOREIGN AFFAIRS,
Washington, D. C.

EXECUTIVE SESSION

The committee met in executive session at 10 a. m., Hon. Sam D. McReynolds (chairman) presiding.

The CHAIRMAN. The committee will come to order.

Mr. GILLETTE. Mr. Chairman, before we turn to the bill under consideration, I would like to have about a half minute to call attention to a matter that is of some concern to me.

The CHAIRMAN. We shall be glad to hear from you.

Mr. GILLETTE. Mr. Chairman, I was considerably disturbed when I got a copy of the morning Herald and found this statement with a slughead, "G. O. P. Forces Open Hearings on Peace Bill."

Some of the members are mentioned by name and the body of the article goes on to state:

The House Foreign Affairs Committee agreed yesterday to hold open hearings on the Administration's neutrality bill, when Republicans charged an Administration attempt to "conceal its joker" clauses in secret sessions.

Then it goes on to say that Chairman McReynolds acceded to this request when he was practically forced into it; and that the move came as a joint request by the Republican members.

Now, I do not know whether this was carelessness on the part of any member of this committee in reporting the occurrences of the committee to the press, or whether this is just another example of the vindictive distortion of the news that appears in the Hearst newspapers.

I buy a Hearst newspaper for its news. If I were buying it for its editorial policy, I would consider the 3 cents a gross overcharge for the paper.

But I am particularly interested because, as I remember, there was not a man here, Republican or Democrat, that was not heartily in favor of open hearings. I recall that the chairman himself specifically stated that there were to be open hearings.

I am loathe to believe that any member of the committee carelessly gave the impression to any member of the press that called for the article. There is no member of this committee that is trying to give a partisan slant to this hearing that is on a measure of this supreme importance. I know that is so of the Republican members of the committee.

I was in agreement yesterday with practically every position taken by Mr. Tinkham in discussing this bill. But it is a mighty unpleasant thing to pick up a newspaper and find a report of this kind that is sent all over the country, and reflects upon the administration and upon this committee.

The CHAIRMAN. I am very glad that you have called attention to the article. I had not seen it.

Mr. TINKHAM. May I see a copy of that, please?

The CHAIRMAN. I do not feel that any member of this committee would give out a statement of that kind. Every one knows that there is no partisanship in this matter; that I have been trying to get the bill ready because of my interest in it, because I am chairman of the committee, and wanted to get something on which the committee could proceed. I think from what I have learned from the committee, that all of us are practically in accord, at least, on the purpose of the bill.

Mr. MARTIN. I think we all want to keep the country out of war.

The CHAIRMAN. Certainly.

Mr. TINKHAM. Mr. Chairman, this is the first time I have seen this report. There is a man connected with the Hearst press whom I have known for 25 years. I have talked with him through the years. He happened to meet me yesterday and I talked with him. I suppose I should not have talked at all, but it is quite natural to do so with one whom you have known well for many years.

The CHAIRMAN. Of course, while it was an executive session we had yesterday, I did not consider anything that occurred could really come under the head of "executive." I mean by that, there was nothing that could not have gone out to the public. I told the newspaper boys the only reason we had an executive session was because we did not want to be crowded. We wanted our committee to have a thorough understanding of the bill before we opened the hearings to the public. We thought in that way we could make better progress.

Mr. TINKHAM. I thank you very much for saying that, Mr. Chairman. I do not wish to commit any error. Certainly, I have not approached the consideration of this matter in any partisan way, and I think this committee knows it.

The CHAIRMAN. Of course, I know that you would not give out a statement like that.

While we are on the subject of what happened yesterday, and with reference to the statement of Mr. Fish that no Republican was consulted about this bill, I forgot to say that when I was talking to him at the meeting of the Foreign Service Buildings Commission, I asked him to help me. He said he had to go to New York, that he was very busy. But I did have my friend, Dr. Eaton, who was the only one I could reach, come over to my office and discuss this bill.

Mr. EATON. Mr. Chairman, I think it would comfort all the brethren here to realize that nothing is news any more, unless it hurts somebody.

Mr. GILLETTE. Mr. Chairman, I am convinced that this article is a distortion.

The CHAIRMAN. Of course.

Mr. EATON. This is a Nation of pacifists now and newspapers are conducted on the principle that no story is good unless it involves a cat fight. Consequently, this peaceful gathering must be represented as having locked horns, and battled, to establish neutrality by fighting.

The CHAIRMAN. Of course, we know that we did not have a squabble at all, not a bit of it.

Mr. EATON. I move we forget about it, Mr. Chairman.

The CHAIRMAN. It is forgotten. We will proceed with a discussion of the bill and hear the representatives from the State Department.

STATEMENTS OF HON. R. WALTON MOORE, ASSISTANT SECRETARY OF STATE, AND GREEN H. HACKWORTH, LEGAL ADVISER, DEPARTMENT OF STATE—Continued

The CHAIRMAN. We were discussing the fourth section of the bill. Are there any further questions to be asked about that?

Mr. MOORE. Mr. Chairman, may I make this statement before we begin?

This bill is not a one-man bill. It is a measure that is the result of a great deal of earnest study by various individuals and it comes to you as a bill introduced by the chairman of your committee, who is one of those who has given as much attention, probably, to the problem as anybody else. It is here simply for you gentlemen to consider in the way you have just indicated—in a nonpartisan fashion, with a view of doing the best that we can in order to attain the common objective.

The CHAIRMAN. Mr. Moore, may I ask you this, also? Before the last session of Congress, when the prior session adjourned, did you not have a committee of various people studying this question of neutrality? I know that a report came from it.

Mr. MOORE. Yes.

The CHAIRMAN. Can you tell me who they were?

Mr. MOORE. I have been in the State Department now for nearly 2 years and a half, and I think before I had been there a year, the Secretary directed, in anticipation of the probability that there would be legislation, that this subject be studied as carefully as possible. There were various people who were drawn into that study, and the outcome of it all is this measure that you are now considering.

I want to say to the committee that because of knowing of this situation and the study that was being given to it, and the recommendations that were being made, while we had some other bills here, the Chairman was slow in getting those matters together, with a view of trying to obtain a report from various people who had been studying the subject for some time.

Mr. TINKHAM. Mr. Moore, I wish you would express to the committee your opinion of Professor Hyde, of Columbia University, who is to come before this committee.

Mr. MOORE. I do not know him as well as I know Professor Borghard, but I have every reason to entertain a high opinion of him.

Mr. TINKHAM. Thank you.

Mr. MOORE. There are, all over the country, men in the category to which he belongs; international students; international lawyers, who have given a great deal of attention to this subject that you are dealing with. There is the greatest diversity of opinion. They are the experts, and you know experts are apt to be in controversy among themselves as to what is and what should be done.

I do not come here today as an expert. I only come here as a man claiming to have some common sense and trying to take a practical view of the situation as it is, and to do the best possible without too much regard for legalistic and theoretical considerations; and knowing that you are legislating not for today alone.

Mr. TINKHAM. That is it.

Mr. MOORE. And without relation to a contest between two particular countries.

Mr. TINKHAM. That is right.

Mr. MOORE. But legislating with a view to the remote future and all that may occur in that time.

Mr. TINKHAM. And more than that, I think, Mr. Moore, with a view to a great war in Europe within a measurable time, I am thoroughly convinced.

Mr. MOORE. Now, that is just one of the uncertainties. Some of us might go upon the assumption that there is soon going to be a widespread war in Europe. Some of us might go on the contrary assumption, believing, quite hopefully, it may be avoided. That is just one of the uncertainties that I am talking about.

Mr. RICHARDS. Before we pass on to section 4, I would like to ask Judge Moore whether he does not believe there is some danger in the three lines beginning at line 10 on page 4:

* * * such normal amount to constitute the average of shipments during a previous period of years to be determined by the President.

Why would it not be better to have a specific number of years? It seems to me that that could be construed as an unneutral act.

The CHAIRMAN. May I say to the gentleman, this bill first contained a provision for a period of 3 years. I objected to that, because I did not think that 3 years would represent a period of normal trade; for instance, the last 3 years of the depression. I wanted to go back more than that. I am sure the President would go back for a number of years in order to get a fair general average. That is the reason the 3-year period was left out. I really think there would be no objection if you had a period of 10 years, in order to get a general average of trade.

Mr. RICHARDS. I think so. I could see that if there were liberty in choosing any number of years there might be a fight between the powers as to what the period of time should be.

The CHAIRMAN. I have no objection to that. That is a matter that we can discuss when the committee comes to write the bill. I did object to the period of 3 years, and I would object to a period of 5 years, because I do not think that would represent the normal trade. I was responsible, I think, for taking out that specific period of time.

Mr. MOORE. As the chairman says, a period of 3 years was thought of, and a period of 5 years was thought of. There was a great deal of discussion. I think that the bill that Mr. Maverick has intro-

duced designates 5 years. Then, upon a good deal of consideration of that, it was thought in order to enable him to do the wise thing and the fair thing in particular cases, it would probably be better to let the Executive study the statistics and determine what period should be selected.

Conceivably, if he took 5 years, he might find that the movement was enormous, or he might find that the movement was inconsequential. Facts of that sort, it was thought, he might well take into account. That was the only earthly reason why it was left to his discretion.

The CHAIRMAN. He would have to declare rules and regulations at the outset, Mr. Richards, before the act went into effect, and that would be controlling.

Mr. TINKHAM. If the gentleman has finished with that, Mr. Moore, I should like to ask a question with reference to page 5 of the bill.

The CHAIRMAN. Is that all the questions on section 4? If so, we will pass on to section 5.

Mr. MOORE. Are you going to section 5 now, Mr. Tinkham?

Mr. TINKHAM. I shall have to oppose this language in section 4, to which I referred yesterday, at the bottom of page 3 and the top of page 4:

* * * or that to refrain from placing such restrictions would contribute to a prolongation or expansion of the war, and shall so proclaim, * * *

The CHAIRMAN. You made that argument yesterday.

Mr. TINKHAM. Yes; I mentioned that yesterday.

Mr. MOORE. I would like to make one further suggestion in addition to those that I offered on yesterday on that point; that if we can legitimately do anything to avoid the prolongation or expansion of a war, it is to our interest, because everybody realizes that the longer a war lasts the more danger of our being involved. If we can do anything legitimately to cut it short, we ought to do it. It was assumed that the exercise of this authority, given by section 4, would be in that direction.

Mr. TINKHAM. But if we do anything as between two nations which are at war, under that language we are instantly taking sides.

The Chairman. I think we understood your argument on that yesterday, Mr. Tinkham. I think you and I are together on that.

Mr. TINKHAM. Then that is satisfactory.

Mr. CALDWELL. I am inclined to agree with Mr. Tinkham on that. May I ask the Judge if he thinks the language—

or that to refrain from placing such restrictions would contribute to a prolongation or expansion of the war and shall so proclaim—
adds anything material to the bill?

Mr. MOORE. Well, very frankly, I think that there is a sufficient foundation for the exercise of the authority that is conferred by section 4, without that language. That is my frank personal answer to your question.

Mr. TINKHAM. Where do you think is the authority without that language?

The CHAIRMAN. The other two provisions.

Mr. MOORE. The antecedent provision. When he finds that action will serve to promote the security and preserve the neutrality of

the United States, or protect the lives and commerce of nationals of the United States.

The CHAIRMAN. If there are no further questions on this section, let us pass on to section 5.

Mr. MOORE. Mr. Chairman, if you will allow me, I am going to ask Mr. Hackworth, the legal adviser of the State Department, to explain section 5 and answer any questions on it, as well as the rest of the bill from here on. I shall be present and ready to assist in any way that I can.

The CHAIRMAN. Very well. Section 5 provides that—

Whenever the President shall have issued his proclamation as provided for in section 2 of this act, it shall thereafter during the period of the war be unlawful for any person within the United States to purchase or sell bonds, securities, or other obligations of the government of any belligerent country, or of any political subdivision thereof, or of any person acting for or on behalf of such government, issued after the date of such proclamation, or to make any loan or extend any credit to any such government or person: * * *

And so forth.

Mr. SHANLEY. Would there be any difficulty if we insert the word "exchange", to make it read, "to purchase or sell or exchange"?

Mr. HACKWORTH. In the proviso?

Mr. SHANLEY. In section A.

Mr. CALDWELL. I think Mr. Shanley has reference to line 8 on page 5.

Mr. HACKWORTH. Mr. Chairman, section 5 (a) is virtually a repetition of the Johnson Act.

Mr. JOHNSON. That is what I was going to say.

Mr. HACKWORTH. The Johnson Act applies only to countries that are in default on obligations to the United States. It was thought desirable to extend that act to cover other countries which were not covered and we did not try to modify the language in the Johnson Act. We thought it would be better to keep it more or less uniform, because that act has already been passed and is now a law. I think when you say, "to purchase or sell", you cover the whole situation. If you allow the exchange of bonds of one category for bonds of another, or the bonds of one country for those of another, there might be an opportunity to do something that we do not want to have done.

Mr. SHANLEY. I should like to include exchange, because I would want to prevent them from exchanging bonds, because they could unload a group of worthless bonds on us under some legal loophole.

Mr. CALDWELL. You want to prohibit the exchange as well as the purchase and sale.

Mr. SHANLEY. Yes.

Mr. HACKWORTH. There is a question as to whether the exchange of one bond for another would come within the term "sale."

Mr. SHANLEY. There is an open question there. I thought of the Negotiable Instruments Act. I looked it up, and found that one interpretation is that an exchange is not a purchase. Certainly, the inclusion of that word would not do any harm, would it?

Mr. HACKWORTH. It might be worth considering. We were merely trying to follow the Johnson Act, in this section.

Mr. JOHNSON. May I ask a question there, Mr. Chairman?

Under the Johnson Act, have you had any questions arise with reference to the interpretation of any of the language contained in that act?

MR. HACKWORTH. Yes, we have had any number of questions.

MR. JOHNSON. Have any of those questions arisen that cause you to think that the phraseology of this section should be clarified?

MR. HACKWORTH. The questions that have arisen have caused us to place the proviso in this section. In other words, we had innumerable questions shortly after the act was passed as to whether or not it applied to drafts and checks, and this, that, and the other. We grouped those questions and put them up to the Attorney General, and got an opinion from him, which was to the effect that the Johnson Act was never intended to apply to ordinary commercial transactions.

MR. JOHNSON. What do you mean by ordinary commercial transactions? Do you mean transactions between individuals?

MR. HACKWORTH. Well, between individuals or between a government and individuals; for instance, where the Government gives a 30-day draft on a government purchase. That is an ordinary commercial transaction, and is quite customary.

MR. JOHNSON. This is designed primarily and solely to prohibit the sale of government securities of belligerent countries, just as the Johnson Act prohibits the dealing in securities of countries that are in default of the United States.

MR. HACKWORTH. Yes. The idea is to prevent these belligerent governments from raising money in the United States to carry on their war, but not to prevent them from engaging in ordinary transactions where no such loans are contemplated.

MR. TINKHAM. Did you see the evidence before the Munitions Committee yesterday?

MR. HACKWORTH. I did not see it.

MR. TINKHAM. Well, I did. That was the first thing they did, to get these short-term credits. Then the question was put up to Mr. Wilson, whether they should issue bonds, and the short-term credits were immediately substituted by bonds.

MR. HACKWORTH. I understand.

MR. TINKHAM. If we allow these short-term credits, that will be taken as a base. We have the Johnson Act to prevent their issuing bonds, but we have nothing to prevent them from raising money if we allow them the privilege of short-term credits.

MR. HACKWORTH. This bill provides that the President shall regulate the short-term credits; that he shall control these matters by regulation. And it is to be presumed that the President would not allow the purposes of the act to be defeated in whole or in part by short-term credits.

But here is one reason why we should have the proviso. Foreign governments have their embassies, legations, and consulates in the United States. In many cases they have to pay their bills through the use of drafts. An important country may have consulates all over our country, wherever there is a large seaport, and sometimes in the interior. They must cash drafts to carry on the ordinary routine business of their offices. If you clamp down tightly on

them and prevent any leeway with respect to credits, you make it almost impossible for them to handle their official affairs.

Mr. TINKHAM. Then why not limit the proviso to their consulates, legations, or embassies by such direct language? The proviso as it is opens wide the door as long as they have gold to carry on trade. They can carry it on indefinitely. Where they do not have gold, of course, that is different.

Mr. LAMBETH. Mr. Chairman, may I interrupt to ask a question? I came in a little bit late, and I want to ask a question relative to section 4, following Mr. Kloebs question yesterday.

If I understand that correctly, the power of the President to limit to normal quantities the shipment or export of commodities to belligerents, it covers everything except food and medicine; is that correct?

Mr. HACKWORTH. That is correct, as to war materials.

Mr. LAMBETH. Those are the only two exceptions. If we permit food and medicinal supplies to go to those countries, do you not have to have some latitude in the section that you are now discussing in order to permit the payment for that food and medicine?

Mr. HACKWORTH. Absolutely.

Mr. TINKHAM. All you have to do is to specify the type of expenditure to which you wish to allow the short-term credit to apply.

The CHAIRMAN. I think I understand your idea, to prevent the extension of these commercial credits having a maturity of more than 6 months—something like that.

Mr. TINKHAM. Something of that sort, so that they will be held down.

Mr. HACKWORTH. This is qualified; it relates to ordinary commercial credits. It is generally known what is meant by ordinary commercial credits; short-time obligations; 30-, 60-, or 90-day drafts, of a character—you see, we qualify it still further—of a character customarily used in current commercial business.

In other words, you allow them to buy the normal quantity of these prohibited articles in the United States; you allow them to buy all other articles without limitation, and as Mr. Lambeth has said, you allow them to buy food and medical supplies without limitation.

The ordinary procedure would be to buy these things and give a short-term draft in payment. That is one way a foreign government may handle its business. It cannot transfer money over here, pounds sterling, francs or pesos—whatever it may be. It may also establish a credit here in a bank and draw on that credit to pay bills. The whole thing is to be controlled by regulations to be prescribed by the President.

He could permit by regulation the establishment of credits with respect to the purchase of articles in which trade is not restricted and he might even permit the use of credits or short-time obligations to the extent that the trade is permissible under the Act of Congress as to restricted articles.

In other words, the President has complete power to control the situation by regulations. We do not, I assume, want to stifle ordinary trade with foreign governments. We want to keep trade ave-

nues open insofar as it is consistent with the legislation that you are considering.

Mr. JOHNSON. If you were to undertake to prescribe the exceptions, you might overlook some of them.

Mr. HACKWORTH. That is correct. When you state certain exceptions, it is assumed—

Mr. JOHNSON. That the others are negatived.

Mr. HACKWORTH. That is right.

Mr. MOORE. May I make one suggestion by way of illustration? Let us suppose a war occurs between Great Britain and Canada on the one hand, and we will say some oriental nation on the other. They are among our very best customers for these things that are allowed to be shipped—that is, England and Canada. Would you want to do anything that would stifle our ordinary commercial relations with those customers? That point it seems to me goes to the importance of leaving the measure in this section quite flexible.

Again, coming back to the point that we cannot predict what is going to occur, you cannot tell what sort of wars are going to occur in the future. You take the district represented by my friend, Mrs. Rogers. I think it would be very detrimental to the interests of that district to say that in any conceivable war, you shall cut off ordinary commercial transactions with all of the belligerents.

It might be just such a case as I have instanced the possibility of, where it would be perfectly safe and very desirable that trade shall continue.

Mr. EATON. Mr. Chairman, I think we ought to pay a great deal of attention to what Mr. Moore has just said. Here we are legislating on a very intricate and a very critical matter. We must bear in mind that it is bound to affect the entire economic structure of our own Nation, as well as that of other nations. If we, in the interest of the theory of neutrality, destroy our own prosperity, if we ever have any again—

The CHAIRMAN. It is to be hoped we will.

Mr. EATON. Yes; after the next election!

The CHAIRMAN. That is correct; it will be Democratic.

Mr. EATON. And while I am on that point, I would like to call attention to the background here. We are dealing with this legislation, but let us not forget that it affects an ancient doctrine, the freedom of the seas, for which we fought two great wars. It affects the economic structure of our Nation and it affects the relationship of the citizen of this country to the protection of his own Government. It strikes me that in considering these details we ought to have that background, that important, and intricate background, constantly in our minds.

Mr. MOORE. That is just my idea. We do not want to put handcuffs on ourselves, in advance.

Mr. SHANLEY. Could we not use the same measure of the commercial quota in section 5 that we are using in section 4, and restrict those credits to the average of the short-term credits that had been issued in that previous period?

Mr. MOORE. You could not, very well.

Mr. SHANLEY. There is a loophole there, it seems to me, in the matter of those short-term obligations. If they were restricted to the normal amount of their credit, they would not be hurt.

Mr. CHRISTIANSON. How would you administer such a quota, if you were to apply it to credits? It would seem to me that it would raise a tremendously difficult problem.

Mr. CALDWELL. I know of no reason why we should not take advantage of an increased demand for foodstuffs and medicines and medicinal supplies—innocent articles.

Mr. TINKHAM. If we do, we shall be following the same course that we followed in 1914.

Mr. LAMBETH. Mr. Chairman, following the very pertinent comment of Dr. Eaton, I would like to say just this word. I am greatly impressed with the thought that he has expressed. If we take the extreme position that some people now advocate with reference to neutrality, and virtually close our ports and refuse to trade during a war, how can we, after the war, expect to regain the trade of those countries, when they have formed other contacts and have found other sources of supply?

Mr. CHRISTIANSON. Continuing your argument, if we should close our ports and stop all foreign trade, how in the world could we withstand the public sentiment that would arise in this country and that would demand the repeal of this legislation? I am more afraid of the public sentiment within the country than I am of retaliation from abroad.

The CHAIRMAN. We would have a war among ourselves, in other words.

Mr. CHRISTIANSON. I do not think we would, because I think the sentiment would be so overwhelming that this Congress would instantly enact legislation to repeal this.

The CHAIRMAN. Gentlemen, I am delighted to hear you express yourselves on that question.

Mr. CHRISTIANSON. That is one reason why I am personally strongly impressed with Mr. Kloebs idea that was recently put out in the form of a suggestion by Bernard Baruch, that we conduct a cash-and-carry business, to let them come here and get what stuff they need and pay for it and take it away without restriction.

I am sorry, by the way, that I have not had an opportunity to read your statement on that, Judge Moore—the statement that you made during the last session.

Mr. MOORE. I did discuss this neutrality question in one of its phases quite elaborately when I was a Member of Congress and had the honor of being a member of this committee. There was a resolution framed that had reference to the embargo of these articles that we describe here as arms, ammunition, and implements of war. That resolution was framed at this table mainly by Senator Burton of Ohio, and myself, and that resolution was discussed considerably in the House. It was not enacted into law.

The views that I entertained at that time I expressed to the House in quite a lengthy statement, but I never discussed this matter of credits. We had never arrived at that point.

The CHAIRMAN. Or this question of coming over here and paying cash?

Mr. MOORE. No. The cash-and-carry proposition is one that was said here yesterday, I understood, originated with Mr. Baruch.

The CHAIRMAN. With Mr. Kloebs.

Mr. MOORE. Yes; Mr. Kloebe. I think he covered it with a measure introduced in the House.

Mr. TINKHAM. It would put the trade right in the hands of England, as long as she commands the seas.

Mr. MOORE. That, of course, is an obvious objection. It would give an opportunity to a powerful nation that was heavily equipped with the means of doing so, to take charge of the trade.

Mr. TINKHAM. What would you think of a complete embargo, such as the United States had, I think, under—

The CHAIRMAN. You mean now?

Mr. TINKHAM. Yes; well, I mean, what would you think of a complete embargo—the theory of it? I am referring to a complete embargo such as the United States had under Jefferson, I believe.

Mr. MOORE. On what?

Mr. TINKHAM. Against belligerent countries.

Mr. MOORE. Of anything?

Mr. TINKHAM. Yes; of anything.

Mr. MOORE. I would oppose that for the reason that has just been suggested, that you would not find it responsive to the sentiment of this country. And, as I heard a most distinguished Senator say some time ago—one who does not belong to the party with which I happen to be affiliated—it would produce a revolt in this country.

Mr. TINKHAM. By whom would the revolt be made?

Mr. MOORE. By the people.

Mr. TINKHAM. By J. P. Morgan?

Mr. MOORE. No, sir.

Mr. CHRISTIANSON. By the wheat farmer, among others?

Mr. MOORE. Yes; by the farmers.

Mr. LAMBETH. And the cotton farmers.

Mr. TINKHAM. You say "revolt", and that is all right. But ought we to take that into consideration?

Mr. CHRISTIANSON. But when it is a revolt on the part of practically the whole population it means a political turn-over. It will mean the inability of Congress to withstand public opinion; and I assume that we always are influenced by public opinion.

Mr. MOORE. I think there would be the same sort of revolt that there was against prohibition.

Mr. TINKHAM. That would be very bad, of course.

Mr. FISH. Would it be the same kind of revolt that was predicted on the demise of the N. R. A.?

Mr. MOORE. I do not know about that. There are politics, of course.

The CHAIRMAN. Well, we are keeping this out of politics.

Mr. FISH. I may be a little bit alarmed about these predictions of revolt, but I remember there were predictions of revolt made immediately after the demise of the N. R. A., and I have not noticed it yet.

Mr. MOORE. I was referring to a very distinguished Senator, whom we greatly admire, in order that you might obtain his opinion on this point, as to whether we could practically go into a storm cellar and have our ships rotting at the docks and all of our commerce suspended, with the possibility that has been suggested that we would never be able to regain it.

Mr. EATON. I object to that, Mr. Moore, in spite of being in disagreement with my good friend, Mr. Tinkham, who has declared war against Great Britain; unless we watch out this legislation will be more destructive to our own Nation than it will be to any other nation.

Mr. CHRISTIANSON. Getting back to this cash-and-carry plan, the principal objection raised to it is that it would be a very serious blow to the merchant marine. I understand that it has been suggested, therefore, that our merchant marine be compensated for such a loss of business as it will suffer by reason of the adoption of a cash-and-carry plan during a war. What would you have to say about that, Mr. Moore?

Mr. MOORE. I am not prepared to express an opinion. The Court might say "No."

Mr. CHRISTIANSON. I doubt very much that the Court would hold that. My question had its inspiration in a letter that I received the other day from a woman who is very prominent in the peace movement, the disarmament movement, in my own State. She, of course, takes the position, and I understand that Mr. Tinkham and Mr. Fish take that position, that we should insulate ourselves completely.

Mr. TINKHAM. Against belligerents?

Mr. CHRISTIANSON. Yes, against belligerents. And she went so far as to say that the Government should compensate everybody for the loss of trade. Of course, my answer to her was that for one thing it would be very difficult to ascertain who sustained the loss. There are 10,000,000 unemployed in the United States who conceivably might find employment if there be no embargo.

The CHAIRMAN. Governor, that suggestion was in the bill that was offered in New York by the Peace Movement Association; I believe it is.

Mr. CHRISTIANSON. Yes. I suspect that this woman is connected with the same movement. But she did make the suggestion that the Government compensate everybody for those losses. Of course, I can see tremendous difficulties involved, as well as the burdens that would be imposed by that. But I was wondering if it is not possible to apply that principle as to the losses sustained by the merchant marine, if we should adopt a cash-and-carry plan of dealing with foreign nations involved in war.

Mr. MOORE. Well, it is conceivable that that might be done. But it was suggested a while ago by Mr. Tinkham, that the probability is, if a war occurs, it is going to be far-flung, and if we applied the legislation to all belligerents, we would have that cash and carry system applicable to almost all countries, and might be destroying our merchant marine.

Mr. GILLETTE. Mr. Chairman, I have been greatly interested in my colleagues here calling attention to the difficulties of this job, especially with reference to the reaction that might be forthcoming from the country.

I want to make two or three general observations. After the World War, we were all agreed that we did not want a repetition. There were two schools of thought. One was that there could be concerted action among the nations to prevent our being drawn

into a future war. I happen to belong to those who believed that the American people spoke on this question. The others believed that a system of stricter neutrality than we had had before could be adopted, that could be made effective.

The American people, unquestionably, in 1920, spoke on that question, much against my will, but very effectively in favor of the second method.

Fifteen years have elapsed since that time. We had neutrality rules before that time, but they were not effective. They were not effective either in act or in thought.

Now, during that entire time everybody realized that the American people had spoken, and that we must have an effective neutrality policy that would shape to the end to prevent us from getting into another conflict, or being drawn in. But we did not do one thing until August 1935, when we adopted this temporary measure.

With all these things in mind, to which these gentlemen have called attention, expressing the fear of what the American people are going to think about it, they have spoken for this second method. It is up to us as a committee of this Congress to adopt a neutrality measure here that will carry out their mandate, even sixteen years after it was given.

I believe that it can be made effective, or reasonably so. I do not believe it can be made really effective, but to anticipate a revolt, to anticipate a reaction, I believe, is beside the question. The job that is ahead of us now is to consider this measure that has been presented to us and make it as effective as we possibly can to the end that it will carry out the belief of those who think that a new neutrality policy will prevent future conflict.

Mr. CHRISTIANSON. May I counter by saying that it is impossible for this country, or at least very unwise, to go so far that we shall fail in the event of an emergency to get the support of public opinion. By doing so, we defeat our own efforts before we start.

As to your reference to the fact that our past neutrality policies have failed, is it not due to the fact that an inherent part of that policy, the essential part of it, has been the doctrine of the freedom of the seas? The policy has failed, and our neutrality has failed, on two historic occasions, the War of 1812 and in 1916-17, leading up to World War. In each instance it failed because we insisted upon the maintenance of the doctrine of freedom of the seas.

Mr. TINKHAM. Mr. Chairman, this is beside the point before us.

Mr. CHRISTIANSON. No; it is not. It is very much in connection with this measure. This cash-and-carry policy which has been advocated by our friend, Mr. Kloeb, and others proposes to abandon or at least to retain in only a modified form, the doctrine of freedom of the seas. It eliminates the weakness of our past neutrality policy. Whether it is the right step to take or not, only the future can tell. But, at least, it is the step suggested by the history of our failures in the past to avoid entanglements.

Mr. GILLETTE. I think another contributing cause to that failure of neutrality in the past, as well as the one you suggest, is the fact that it was a neutrality in form and not a neutrality in thought. We were not neutral.

Mr. CHRISTIANSON. It is impossible, by legislation, to obtain neutrality in thought.

Mr. JOHNSON. Mr. Chairman, may I make this observation in reference to what Mr. Gillette has just said about the two schools of thought? I think there are always in this country, upon every question, extremists and radicals one way and the other. There are those who have perhaps gone too far in favor of internationalism. And I can conceive where you might swing too far the other way, being in favor of extreme neutrality legislation; in other words, do nothing, put up our shutters when war breaks, and have nothing to do with any of them.

I think the American people as a whole are not extremists on any question. I think the American people usually take a middle course. What this bill is designed to do is to take neither extreme position—internationalism or extreme neutrality—but to take a position in between the two, and obtain the virtues of each, and embody them in this bill.

Mr. CALDWELL. Do you think the American people are ready to surrender the freedom of the seas?

Mr. JOHNSON. I think the doctrine of the freedom of the seas might be modified to avoid war. I think they are willing to abandon that in part. I think it might be modified to prevent our being drawn into war.

What I am in favor of is to obtain a middle-of-the-road policy, not an extreme policy, in either direction. I think that is what this committee ought to try to do.

By doing that, we will secure, I believe, legislation that might be helpful in keeping us out of war. Whereas, if we go to the extreme of shutting our windows and doors, and closing up everything, the result will be, perhaps not a revolt, but I think we will have no legislation at all and we will really not accomplish what we are seeking to do, but will defeat our very purpose.

Mr. CHRISTIANSON. Do you think it is possible to arrive at some point between the doctrine which insists upon a retention of the freedom of the seas and one which would abandon that policy? Do you think it is possible to find a line in between?

Mr. JOHNSON. That is what I am hoping we will be able to do.

Mr. CHRISTIANSON. In reference to the question of public sentiment, it is significant that recently the Institute of Public Opinion conducted by a large number of American newspapers submitted this question—

Mr. JOHNSON. Let me close my statement in this way. I think the majority of the American people have always been anything but extremists one way or another on any question. I think there is always a small percentage of the people who are radical on either side. I think not only on this question but on all questions the majority of the people are not radicals in either direction.

Mr. CHRISTIANSON. I think it is significant that this poll disclosed that approximately 15 percent of the people are in favor of ending war by cooperation with other nations, and that approximately 85 percent were recorded as in favor of staying out of war by maintaining a policy of isolation.

Mr. MOORE. Do you not think that a measure of this sort which really modifies the doctrine, or waives the enforcement of the right to freedom of the seas, is just the sort of measure we must enact?

When we talk about freedom of the seas, I understand that we mean the right to engage in commerce on the seas without being restrained by any other nation. Now, we are supposed by domestic legislation to say that in case of war we are going to restrict our commercial activity; we are going to restrict the use of the seas for the purpose of carrying commerce. That is what we do by this legislation.

I think you are in a very historic moment. I think the people in the future who will write about this thing will say so. Mr. Gillette said a moment ago that in the World War our policy of neutrality did not work. Well, we had very little domestic legislation on the subject that vested authority anywhere. We were resting largely on international law, and that was flouted by the belligerents during the war. It was such a case that Virgil long ago talked about when he said, "In the midst of war laws are silent."

International law was obscured or disappeared. Up to that time we had had no neutrality legislation except the legislation enacted in General Washington's time, at his suggestion, which referred to the enlistment of Americans in the army of a friendly belligerent, or the outfitting of expeditions in this country to go to the assistance of a belligerent, and so forth. Nothing had been put on the statute books, practically, since Washington's time.

Then came this act of last year, and now we are trying to expand that act.

Mr. TINKHAM. We had an embargo act under Jefferson.

Mr. MOORE. Jefferson declared an embargo which proved ineffective.

Mr. FISH. New England kicked it out of the window.

Mr. MOORE. Of course; I did not intend to refer to that. But you are doing today, Mr. Gillette, a most unusual thing, that no other nation has ever done, a most extraordinary thing. You are trying to protect the neutrality of this country, to prevent this country from being involved in war, and at the same time not sacrificing unduly the interest of our own people by the enactment of this domestic legislation.

It is a tremendous step forward, and it is a tremendous task to enact the wisest legislation that you can devise.

Mr. TINKHAM. I want to say that I think the statement that the American people want to take a middle course, and not an extreme course, is incorrect. In my opinion they either want 100 percent or one-half of 1 percent.

Mr. JOHNSON. The gentleman is expressing an opinion of his own views about everything.

Mr. TINKHAM. I say that from observation.

Mr. JOHNSON. We are taking the people as they are, which is as we are.

Mr. TINKHAM. I want to ask Mr. Hackworth some questions. Freedom of the seas is involved in this legislation.

Am I correct, Mr. Hackworth, in saying that the freedom of the seas doctrine is affected, first, by the fixing of quotas which limit our trade, and second, by the authority given the President to say what articles shall not be shipped under the American flag. To that extent we limit the freedom of our people upon the seas; is that correct?

Mr. HACKWORTH. I think that is subject to qualification. The freedom of the seas is a very much misunderstood doctrine. It has two aspects: one in peacetime and one in wartime. During peacetime the seas are open to every nation. They are the common highway. But during times of war it is generally recognized by all countries that freedom of the seas is circumscribed or may be circumscribed by the right, which is recognized to belong to the belligerents, to intercept unneutral commerce, and particularly to prevent contraband from going to the enemy.

Mr. CHRISTIANSON. But only by an effective blockade.

Mr. HACKWORTH. No; by the right of visit and search. Blockade is one feature, and visit and search is another. If one of our vessels is carrying contraband to a belligerent country, the other belligerent has the recognized right to stop that vessel, take it into port, and subject it to a prize court proceeding, because the carriage of contraband by a neutral is contrary to the principle of neutrality.

Now, the neutral government does not have to stop that, but it may be stopped by the belligerent who is more interested in preventing it than is the neutral country. So that your freedom of the seas, right away, must submit to the proposition that the belligerent has the right to intercept contraband goods and if the vessel is carrying contraband, or is otherwise engaged in unneutral service, the fact that it is flying a neutral flag does not give it protection.

The CHAIRMAN. May I suggest right there that the belligerent country is the one who passes on the question as to whether or not the article is contraband.

Mr. HACKWORTH. That is the trouble.

Mr. JOHNSON. That is international law now.

Mr. TINKHAM. That is not international law, but international practice, which is entirely different.

The CHAIRMAN. That is what was done the last time.

Mr. TINKHAM. That is right. That is what was done the last time.

The CHAIRMAN. Usage makes international law.

Mr. TINKHAM. If I may I wish to continue my question to Mr. Hackworth.

We have the right, then, on a quota basis, to ship to belligerents under our own flag; or the President has the right to proclaim that it shall not be under our own flag.

Mr. HACKWORTH. That is correct.

Mr. TINKHAM. So to that extent we curtail, of our own free will and volition, the freedom of the seas as to belligerents.

Mr. HACKWORTH. That is correct, in a sense. That is as I said before.

Mr. TINKHAM. I understand that.

Mr. HACKWORTH. If these articles which the President may limit to the amount of the normal trade are properly denominated contraband of war, the American vessel may very well be intercepted on the high seas by a belligerent and it may be taken into port.

Mr. TINKHAM. And that is why he has the right, in those circumstances, if in his opinion it might lead to war, to say that they shall not be shipped under the American flag.

Mr. HACKWORTH. That is why he might say that.

Mr. TINKHAM. Exactly. Now, let us proceed to the next point. We have the right to ship to neutrals, and the President has no authority to say that those articles shall not be shipped under the American flag; is that correct?

Mr. HACKWORTH. This bill does not contemplate placing a quota on neutrals. It only contemplates placing a quota on the belligerents.

Mr. TINKHAM. On the belligerents.

Mr. HACKWORTH. Yes.

Mr. TINKHAM. Therefore, as to neutrals, under this act, first, we could ship all that we wanted, and second, the President would have no right to say that we could not ship goods under the American flag; is that correct?

Mr. HACKWORTH. That is correct, except to this extent, that if the goods are going to the neutral for transshipment to the belligerent, then he may say that American vessels shall not carry those goods.

Mr. TINKHAM. But, of course, practically speaking that never occurs, does it?

Mr. JOHNSON. Frequently.

The CHAIRMAN. Oh, of course it does.

Mr. TINKHAM. I do not mean in fact, but technically speaking. Goods shipped to a neutral are never marked as being shipped to a neutral for transshipment to a belligerent.

Mr. HACKWORTH. We intercepted during the Civil War a vast amount of commerce which was ostensibly destined to a neutral port. But we seized it. We stopped the ships, on the ground that the cargoes were to be transshipped to the enemy, and the Supreme Court passed on any number of cases of that sort and upheld the seizures. That was on the theory of the doctrine of continuous voyage.

So that if it should develop that a given cargo, to be carried on an American vessel destined ostensibly to a neutral country, is in fact intended for a belligerent country, the President could say that such a cargo cannot be carried on an American vessel. Under this act he can make that ruling.

A vast amount of our commerce was intercepted during the World War on the theory of the doctrine of continuous voyage. We said that that doctrine was carried too far. It was carried too far. I think we were correct in saying that.

But it is well known that very frequently cargoes are destined to a neutral country, with the intention on the part of the shipper and the consignee that the cargo shall go on to a belligerent.

Mr. TINKHAM. Is there any way of preventing that?

Mr. HACKWORTH. There is this way. The President is given authority in this bill to prescribe regulations to carry out any part of the bill. I have no thought as to what regulations the President may prescribe, but it is conceivable that he might say that such a cargo of arms, let us say, shall be permitted to go out but, "I have to have definite evidence that the arms are to be used in the neutral country to which they are destined. I have to have some assurance that they are for use in that country before they will be permitted to go, before an American ship may carry them."

Mr. MOORE. If I may interrupt a moment, let us take another illustration. Let us assume a war between Germany and Russia, and the President were to find that there was an excessive amount of goods being shipped to The Netherlands and to Belgium. Why, there would be an inference which he could verify by further examination, that those goods were intended for the use of Germany, and he would have the right to prescribe regulations and restrictions that would prevent that abuse.

Mr. LAMBETH. You mean he could limit the quantity that went to the Netherlands and to Belgium?

Mr. MOORE. Exactly.

The CHAIRMAN. Gentlemen, is there anything further under section 5?

Mr. LAMBETH. Mr. Chairman, if I may be permitted to ask a question at this point: This discussion that Mr. Tinkham and Mr. Hackworth have just had is very interesting to me. I am not an international lawyer, not even a country lawyer. But I would like to have cleared up for my own information, and for the record, as to who determines what articles are contraband under international law.

The CHAIRMAN. Who did do it? That is the question.

Mr. HACKWORTH. Efforts have been made from time to time to settle this very controversial question of contraband. The Declaration of London of 1909 undertook to state what should be regarded as contraband. That Declaration, however, was not adopted by the powers and, consequently, it is not effective. But it does undertake to state what articles shall, and under what circumstances, be regarded as contraband and, therefore, subject to seizure.

In the absence of any definition of contraband, the nations at war have more or less uniformly put out their own lists.

Mr. LAMBETH. You mean the belligerent nations declare what they regard as contraband?

Mr. HACKWORTH. That is correct. They start out with a small list of what most people would say might be regarded as contraband. As the war goes on, they enlarge the list and keep on enlarging it until by the close of the war practically everything is regarded as contraband by the belligerents. That is what happened during the World War.

The CHAIRMAN. Did not England have a list of over 200 articles, which she finally cut down to 179, at one time?

Mr. HACKWORTH. But those were grouped in categories. She had, at the end, a very much larger list than she started out with.

Mr. LAMBETH. What I would like to do is to put a practical question. Suppose Great Britain and Italy were at war. A ship flying the American flag with a cargo consisting of oil, cotton, and copper, is halted at the Straits of Gibraltar by a British battleship. From the diplomatic point of view, what would be the situation?

Mr. HACKWORTH. In the first place, we would have to decide whether, under the circumstances, these commodities are properly to be regarded as contraband, and if we should decide that they are properly to be regarded as contraband, we would not be able to make any complaint regarding the seizure.

Mr. LAMBETH. May I be permitted to go just one step further—although I do not want to prolong the discussion unnecessarily, Mr. Chairman. I am not a student of these matters at all, and I confess I have yet not given this bill close scrutiny. I have thought considerably about neutrality legislation since we enacted the temporary resolution last August. I would like to ask Judge Moore a question. One of my predecessors was Mr. Robert N. Page. In 1916 the McLemore resolution came up in Congress. Some of you gentlemen were here then. Of course, I was not. I happen to have been at that time somewhat of a callow youth.

Mr. TINKHAM. I was here at that time.

Mr. LAMBETH. I wanted to ask this question for my own information, to get the background to this situation. Mr. Page voted for the McLemore resolution. It was defeated, as I recall, due to the opposition, it might be stated, of President Wilson and the administration. In other words, Mr. Page broke with the administration and then announced his retirement. He did not run again, which was a very great loss to his constituency, and, I think, the entire country.

Mr. MOORE. Perhaps he had his eye on you at that time.

Mr. LAMBETH. I am sure he did not, because there was an interval of at least 14 years before I came on the scene. I just stated that as a background and because of my own personal interest. Now, his brother was the Ambassador to England, Mr. Walter Hines Page. I would like for you, Judge Moore, to state in your own way what the situation was, what the complications were that grew out of that, and where it might have led us had the McLemore resolution been adopted. We might have been able to keep out of war; perhaps we would not have been involved in it as soon as we were. In other words, from the point of view of the legislation now contemplated and before this committee—I am trying to ask you a leading question—will you tell us whether the situation that would have been created by the passage of the McLemore resolution is in any way like the situation before us?

Mr. MOORE. I was not in Congress at that time, but, of course, I recollect what was proposed then, and I think that this measure that you have here is to an extent very much in line with what was proposed then.

Mr. LAMBETH. With the McLemore resolution?

Mr. MOORE. With the McLemore resolution.

Mr. JOHNSON. The McLemore resolution, as I recall, was simply that Americans who traveled on board belligerent ships did so at their own risk; is not that so?

Mr. MOORE. And Mr. Bryan, you recall, was supposed to be very much in favor of that proposition.

Now, we have talked a good deal about freedom of the seas, and we have talked a good deal about contraband. We have not used the words "freedom of the seas" in this bill, nor the word "contraband." This is simply domestic legislation. We are proposing that we put our Government in a position that international law would not require us to be put into. But we recognize that international law was disregarded in the last war, and we are now aiming by domestic legislation to place ourselves where we will not be com-

pelled to resort to international law alone but will have a measure that will be enforced, that will protect our neutrality and prevent us from being drawn into a war.

We do not surrender our rights under international law. We do not surrender our rights to enjoy the freedom of the seas. We do not surrender our rights to have a say as to what is or is not contraband, because we have inserted in this bill, in the last page, a provision that:

Except to the extent that the law and rules of neutrality are or may be temporarily or provisionally modified by or under authority of this act the United States reserves and reaffirms its rights under international law as it existed prior to August 1, 1914.

The CHAIRMAN. In other words, we are enacting a new law but holding on to the good there is in the old.

Mr. MOORE. We are simply enacting domestic legislation in our own interest and absolutely in our own interest.

I think that the most unwarranted misconception is that this legislation is intended to be in the interest of any other nation or any group of nations. Primarily it is altogether in our own interest. We would not be justified in enacting it on any other basis.

Mr. LAMBETH. I want to say one more word, Mr. Chairman. Do I understand, then, Judge Moore, from your statement, that this bill that is now before the committee substantially enacts the provisions of the McLemore resolution?

Mr. MOORE. Yes; I think so.

Mr. LAMBETH. In what section is that? I suppose we will come to it, and I am probably anticipating, and if so, I am sorry. But the discussion precipitated by Mr. Tinkham brought the matter to my mind.

Mr. MOORE. I believe this—and again we may say that we are not able to predict anything very much ahead; you cannot predict much beyond a day—but I think in all probability that if we who are around this table had been voting on the McLemore resolution, with the knowledge then that we now have, we would have supported it. If I had been in Congress at that time probably I would have voted against it. If I had had all the knowledge that we have acquired since, I would have been favoring it.

Mr. LAMBETH. Our hindsight is always superior to our foresight.

Mr. TINKHAM. If I had had the knowledge then that I have now, particularly of the official documents which I have since seen, I should never have voted for the war.

Mr. KLOEB. Mr. Chairman, I do not think this is the proper time to do it, but before Judge Moore finishes, I would like him to amplify his statement on the theory of the cash-and-carry proposition not meeting the approval of the Department. That, of course, has been close to my heart. But here is another question that I want to raise, and I think it might just as well come now. I have drafted a form of amendment, which is crude in a way, on the back of this bill.

The terms "foreign states, belligerent countries, and belligerent country", shall not include countries in Central or South America if they be attacked or invaded by a state or country foreign to the American continent, if the Congress, with the approval of the President, shall so declare.

That raises flatly the question as to whether or not we want this law passed as it is, to abrogate the Monroe Doctrine, set it aside, hold it for naught, in case a country foreign to the American continent should attack or invade a country of Central or South America.

Mr. JOHNSON. What about North America?

Mr. RICHARDSON. Why not include North America?

Mr. MOORE. Because Canada is part of the British Empire.

Mr. JOHNSON. What about Mexico?

Mr. CALDWELL. Why not let the last clause of your amendment say, "unless the Congress shall so declare?"

Mr. KLOEB. I drafted this hurriedly last night, about midnight, in pencil, and I do not claim perfection for it. I am simply by this method raising the question with the Department of State as to why that theory should not be applicable in this bill.

Mr. MOORE. You will notice, Mr. Klobb, that one section of this bill provides that all of the embargoes and restrictions shall apply impartially, unless the Congress, with the approval of the President, shall otherwise declare.

Mr. KLOEB. And the amendment that I have just called to your attention is based upon that section.

Mr. MOORE. But you would declare affirmatively that this act, if the bill becomes an act, shall not apply where a Latin-American country is attacked by a naval power of the Old World.

Mr. KLOEB. That is it.

Mr. MOORE. That is what you have in mind; well, that is a very interesting suggestion and there has been a good deal of talk about it.

There is a practical reason why that is not necessary. The threat of any such occurrence as that would be known before there was an actual attack. The nation that might make that attack is a good many thousand miles away. It would be known in time for Congress to act and to remove the restrictions so far as the country to the south of us was in danger of becoming involved. So practically it does not seem to be desirable, certainly not necessary, to put any such exception in the law.

Mr. MARTIN. Suppose Congress were not in session?

Mr. MOORE. Well, you can get them here pretty quick now.

The CHAIRMAN. I should like to call the gentleman's attention to the fact that when we had the Army and the Navy representatives here once before, they said that under new modes of warfare, if we ever had a war, the first thing we would know about it would be the blowing up of the Panama Canal.

Mr. TINKHAM. Mr. Hackworth, on the question of oil, what is the present international law?

Mr. HACKWORTH. On the question of oil?

Mr. TINKHAM. Yes.

Mr. HACKWORTH. I do not think, Mr. Tinkham, that there is any settled rule on that subject.

Mr. TINKHAM. That is exactly what I expected you would answer. Now, I should like to know this. Under the wording of this resolution, if we pass it just as it is, what can or cannot the President do in relation to oil?

Mr. HACKWORTH. Well, we know that in recent years oil has become a very important article in the conduct of war. Many of the

warships are designed to burn oil; all of the airplanes must use oil; all of the tanks, trucks, and automobiles must have oil. So that while in past years, in past wars, oil has not been so important, in modern times it is very important, and it would not be unreasonable to say that oil may properly be regarded as a commodity to be restricted. Fuel and lubricants were classified as conditional contraband in the Declaration of London.

Mr. TINKHAM. Under the wording of this resolution, exactly what could the President do in relation to oil?

Mr. HACKWORTH. He could say that oil should be limited to the normal pre-war trade.

Mr. TINKHAM. In that connection, I would like to ask this question: The Standard Oil Co. and the Vacuum Oil Co. both sell a great deal of oil to Italy. I have forgotten the exact percentage—35 percent or even higher. Now, they obtain that oil from the Near East, in the Persian Gulf. In other words, practically speaking, not 5 percent of the oil that they sell to Italy comes from the United States. Under the wording of this act how could such oil be affected?

Mr. HACKWORTH. I do not believe that it could be affected because this act has to do with exports from the United States. I might answer your question a little further, perhaps—

Mr. TINKHAM. Yes.

Mr. HACKWORTH. And that is that American companies doing business in foreign countries generally transact their business through corporations created in those countries.

Mr. TINKHAM. That is true.

Mr. HACKWORTH. Through subsidiary corporations; and as to those corporations, they are, of course, nationals of the countries in which they are created.

Mr. TINKHAM. So that if what I say is true about the Standard Oil Co. of New Jersey and the Vacuum Oil Co., their subsidiaries being located and incorporated in Italy, could proceed to deliver oil to Italy, not from the United States, but from their other resources in other parts of the world.

Mr. HACKWORTH. But there is a further check on that in another provision of the bill which authorizes the President to say, if he shall think it expedient, that if they engage in such transactions it shall be at their own risk.

Mr. TINKHAM. So that in relation to oil, the only oil that this bill would affect would be oil exported from the United States?

Mr. HACKWORTH. I think that is correct.

Mr. GRAY. Mr. Chairman, before this discussion is closed, I would like to ask a question.

It is apparent at this time that one of the difficulties in arriving at a conclusion on this bill will be the economic loss to our own citizens. It is inevitable that a restriction of commerce would affect some citizens more than others. It would injure some; it would cast a great burden upon some; and it would even put some of our citizens to such a great loss that they would be faced with insolvency.

Without committing myself in favor of the policy, have you ever considered the proposition of spreading this loss over all the citizens, so that the burden of neutrality would be borne equally, so that no interest could complain or object on that ground?

Mr. MOORE. No, sir; we never have considered that matter, and it strikes me off-hand, that it would be almost impossible to administer a provision of that sort.

There are 130,000,000 people in this country, and perhaps 80 per cent of them would be affected more or less by drastic neutrality legislation. It would be one of the most difficult things in the world, I should think, to undertake to deal with the matter in such a way as to equalize the burden.

Mr. GRAY. There are certain people who are willing to sacrifice peace for trade and profit; and there are others willing to sacrifice trade and profit for peace. If we could only get this into such shape that it will be a common cause, where all would have to sacrifice the same, we will have avoided the opposition of many powerful interests which have defeated other neutrality bills.

Mr. MOORE. Our thought was, generally, that if this involves sacrifices, they are sacrifices that people must make, just as the young men make sacrifices when they go to war.

Mr. BRENNAN. May I suggest to my friend from Indiana that perhaps the sacrifices made by young men, who give of their blood, are greater sacrifices than any that the commercial interests can make.

Mr. RICHARDSON. Suppose we pass this legislation. Then let us suppose further that the Hitler government, or some arbitrary form of government, or combination of governments, makes war on Great Britain which would involve Canada. We would find on the one side a force representing an utterly different philosophy of government from our own, and on the side of Canada and Great Britain, the country that is attacked, a government that represents a philosophy in which we believe.

If we pass this legislation, we would be utterly cut off from lending any support to Canada; we could not ship munitions to Canada; we could not ship supplies of war to Canada; we could not advance credits to Canada. In other words, under this legislation we would be limited in an endeavor to protect what we believed was a philosophy of government like ours, that was attacked.

Mr. MOORE. Yes; unless Congress, which has the power of government, were to say in that condition, "We will suspend this act or repeal it so far as Canada is concerned."

Mr. RICHARDSON. But under this legislation we are taking the position that as long as this law is in force, we cannot take sides in any way.

Mr. MOORE. That is correct.

Mr. RICHARDSON. Except through a declaration of war.

Mr. MOORE. We have taken the position that we will apply the legislation impartially, that we will not undertake to do what has been so often suggested, select the aggressor.

Mr. MARTIN. If Congress should suspend the act, it would be practically a declaration of war.

Mr. RICHARDSON. Yes.

Mr. MOORE. Whatever might result, Congress would take that into consideration.

The CHAIRMAN. I think you are right there.

Mr. TINKHAM. Mr. Hackworth, I wish to ask another question. What do you think of the wisdom of passing this legislation with a war on between Italy and Abyssinia. Do you think such legislation should be passed, if there were a war in progress between two great powers?

Mr. HACKWORTH. So long as we apply our policy equally, I do not think either belligerent would have any just ground for complaint. We know that belligerents change their contraband lists from time to time as the war progresses. They endeavor by those lists to circumscribe neutral rights with respect to the shipment of these commodities. If belligerents can change their position during the progress of the war, why cannot neutrals? This, of course, is subject to the condition that the neutrals must make their policy or their law apply equally to all the belligerents. It cannot be said on the basis of law or reason that a neutral must determine upon its whole attitude or policy and course of action as regards a given war at the outbreak of that war, and that that policy and course of action must remain static thereafter. This would in effect amount to placing the neutral in a strait jacket, so to speak. A different situation would obtain if the neutral acted at the behest of one of the belligerents. In such a situation it would be favoring the belligerent making the request and hence might be regarded as unneutral.

Mr. JOHNSON. May I ask Mr. Tinkham a question right there?

Mr. TINKHAM. Yes.

Mr. JOHNSON. The question which you just asked, with reference to whether it would be unwise to pass neutrality legislation because those countries are at war, does that indicate the gentleman's views that we should not have any neutrality legislation?

Mr. TINKHAM. I believe we should pass neutrality legislation, but that it should not apply to any war now in progress so far as articles and materials which can be used in the conduct of war are concerned.

Mr. JOHNSON. Until what?

Mr. TINKHAM. Until the present conflict is over.

Mr. JOHNSON. If the gentleman's idea, as expressed a moment ago, is that we are on the verge of another war, then this would not take effect for perhaps another 10 years.

Mr. TINKHAM. I think we should pass sound neutrality legislation, but that it should not take effect in any vital particular as to present belligerents. Otherwise we should be taking sides. That would be unneutral.

Mr. KLOBE. Why not postpone this, then, to a future Congress, when the world is at peace?

Mr. TINKHAM. Of course, we do not know when a European war is going to occur.

Mr. JOHNSON. We would not have any law at all, then, if this present conflict grows into a European war.

Mr. TINKHAM. If the committee had followed my suggestion last year and adopted the Senate bill, we would not have this problem before us at all at this time.

The CHAIRMAN. Why not? We passed the Senate bill.

Mr. TINKHAM. Because there is a war on now.

The CHAIRMAN. We passed the Senate bill as it came over here.

Mr. TINKHAM. No; we did not.

The CHAIRMAN. We limited it to February 29, 1936.

Mr. TINKHAM. We limited it to February 29, 1936. But, if it had not been limited——

The CHAIRMAN. All we have to do is to repeal the limitation of February 29, 1936.

Mr. FISH. Mr. Chairman, as I understand, we are to have an open hearing tomorrow. Some people have been invited to appear. Representative Maverick has asked if he also may appear.

Mr. TINKHAM. Mr. Chairman, I have four witnesses whom I have invited to appear.

The CHAIRMAN. Whom have you invited?

Mr. TINKHAM. I have invited Professor Borchard, Professor Hyde, Mr. Frank H. Simonds, and Professor Harriman.

The CHAIRMAN. And they are coming here tomorrow?

Mr. TINKHAM. All four are coming tomorrow.

The CHAIRMAN. Then they shall have the right-of-way, Mr. Tinkham.

Mr. TINKHAM. I have talked with Hon. John Bassett Moore. He could not come tomorrow, but he may be able to come next week; also another witness.

Mr. LAMBETH. Mr. Chairman, may I suggest that the State Department has not yet finished their explanation of the bill. Personally, it appears to me, in the interest of orderly procedure, for the information of the committee, we should have the viewpoint of the State Department before we hear these other outside witnesses.

Mr. FISH. May I say that I made my motion and it was agreed to yesterday, that these gentlemen be heard, as they have been practically requested by the committee to appear tomorrow. We can hear the representatives of the State Department at any time.

The CHAIRMAN. There will be no trouble about that. May I suggest, gentlemen, that we meet tomorrow promptly at 10 o'clock?

Mr. TINKHAM. I told these gentlemen to be here at 10:30, thinking that would be the time the committee would convene.

The CHAIRMAN. We will meet at 10 o'clock and hear the testimony of the State Department representatives at least in the first half hour.

Gentlemen, the committee will adjourn until tomorrow, at 10 o'clock.

(Whereupon, an adjournment was taken until Thursday, Jan. 9, 1936, at 10 a. m.)

AMERICAN NEUTRALITY POLICY

THURSDAY, JANUARY 9, 1936

COMMITTEE ON FOREIGN AFFAIRS,
HOUSE OF REPRESENTATIVES,
Washington, D. C.

The committee met at 10 o'clock a. m., Hon. Sam D. McReynolds (chairman) presiding.

The CHAIRMAN. The committee will come to order.

STATEMENT OF HON. R. WALTON MOORE, ASSISTANT SECRETARY OF STATE—Continued

Mr. KLOEB. Judge, I want to know your opinion as to the provisions of section 5 (a) on page 5 of the bill, using the numbers that are in this bill. I notice that the barring of loans and credit is mandatory. Does that reference to section 2 mean the proclamation that is provided for under section 3 (a)?

Mr. MOORE. Yes, sir. I understand that to be interpreted as placing automatically a prohibition on the negotiation of loans in this manner whenever section 2 becomes operative.

Mr. KLOEB. Now, one further question: Under the provisions of section 4 (a), we limit the so-called "freedom of the seas" to the extent that we permit shipments to be made on the basis of peacetime shipments, we will say.

Now, of course, we must grant, I think, that under the provisions of section 5 (a) that would further restrict the shipments provided for under 4 (a) because of the contraction of credit.

Mr. MOORE. I should say so; yes.

Mr. KLOEB. In other words, section 5 (a) will act as a further limitation of 4 (a).

Mr. MOORE. I should say so.

Mr. KLOEB. I should think so, unless the president would be unusually generous in granting credits of, say, six months or more.

Mr. MOORE. Yes.

Mr. KLOEB. Now, we are attempting, in those sections, to contract or curtail the old theory of the "freedom of the seas." We are not attempting to abolish it. For instance, the Ludlow bill, which has been adopted in the House, would prohibit all trade of any kind. That is trying to get away from the whole question of the freedom of the seas entirely.

Mr. MOORE. With no disrespect to my friend Mr. Ludlow, I would regard it as a sort of storm cellar.

Mr. KLOEB. It is wrapping up the shores around us. Now, the McReynolds bill would permit such trade as might be engaged in,

but would prohibit our ships from passing in or adjacent to belligerent waters.

Mr. MOORE. So I understand.

Mr. KLOEB. Now, the question was propounded to you yesterday by Congressman Christianson, as to why the Department did not agree with the so-called cash-and-carry system as it has been dubbed. Under that system, if in effect, it would permit of purchases over here for cash but would prohibit delivery in ships except other than American bottoms. In other words, it would obviate the section in the embargo bill to prohibit vessels traveling in adjacent belligerent waters and it would not make necessary the stringent provisions of the Ludlow bill. What is the attitude of the Department on that question as to whether it would object to the insertion of that provision in this bill?

Mr. MOORE. I am frank to tell you I have never made any particular study of the cash-and-carry plan, but on the surface one objection occurs to me and that is that it would tend to give a monopoly to the powerful interests.

Mr. KLOEB. That statement was made yesterday by Mr. Tinkham, in the form of an illustration to this effect that, Great Britain controlling the seas, would therefore obtain an advantage under the cash-and-carry provision, but that does not differ from the situation if we have complete freedom of the seas, because a nation that controls the seas is the one that makes the blockade, just as Great Britain did of Germany.

Mr. MOORE. When I said it would tend to create a monopoly, I had more reference to conditions on this side; that the powerful producing interests would be able to gather in all the business and exclude others, whereas, if we had the arrangement which we provided in section 4, for normal shipments, that would be avoided under the regulations and rules that the President might prescribe.

Mr. KLOEB. How would a monopoly be created in this country in trade with those nations that paid cash and carried in their own bottoms?

Mr. MOORE. Well, for instance, take the case of Germany: If Germany were in a war, it could make its bargains here with any producer it might single out, to the exclusion of all other producers. As I have already suggested to you, that, on the surface, is an objection that I find to the proposal.

The CHAIRMAN. Suppose you make a study of that and we will recall Mr. Moore a little later and you can go into it.

Mr. MOORE. Let me ask you this: Which of the bills elaborate that cash-and-carry provision?

Mr. KLOEB. I cannot find that any bill in existence carries that theory.

Mr. MOORE. Where can I get an elaboration in some more or less detail of that proposal? I would like to have that in order to make a study of that and do the best we can with your questions.

Mr. KLOEB. Some 8 or 9 months ago, in some hearings, which are printed, that theory was propounded in the colloquy that occurred between Mr. Johnson of Texas and myself and it was, at that time, somewhat elaborated upon. I am informed that Bernard Baruch, in the magazine *Today*, issued a month ago, carried an article on

the same subject. General Johnson, some weeks ago, claimed it as his baby in a speech he made in the West.

Mr. MOORE. Will you do me the favor, inasmuch as you are interested in that subject, of furnishing me the best material you have available, in order to assist us in making our study of the matter?

Mr. KLOEB. I will attempt to do that.

The CHAIRMAN. Let us get to the witnesses whom we have called for today.

STATEMENT OF PROF. EDWIN M. BORCHARD, PROFESSOR OF INTERNATIONAL LAW, YALE UNIVERSITY

The CHAIRMAN. Professor, I want you to confine yourself as much as possible to this bill and to any suggestions you have to make with reference to its provisions, or even provisions which are not in this bill; but first, I will ask you if you have gone over the bill under consideration very carefully.

Professor BORCHARD. Yes; as carefully as my time permitted.

The CHAIRMAN. I presume you have prepared suggestions or memorandums in reference to the various sections of the bill, and I would like to have you take it up in that form and get through as soon as you can.

Professor BORCHARD. I have made an analysis of the important points in a general way and have included the details in a memorandum that I will file, with your permission.

The CHAIRMAN. You are going to give a synopsis of your suggestions?

Professor BORCHARD. Yes, sir.

The important feature of this bill, in my opinion, is that it gives complete power to the President to be just as unneutral as he wishes to be.

The CHAIRMAN. What section of the bill does that?

Professor BORCHARD. Section 4 does that, I think, most effectively. In my humble judgment, the President should not want that power because, as you know, there are well-meaning groups in the United States who seem to have special facilities for picking a foreign aggressor, who will propagandize, adjure, and belabor the President with his high moral duty of embargoing, say, coal, cotton, or oil, because coal, cotton, or oil will hurt the particular country they happen to dislike.

I do not think the President should wish to expose himself to those harassments; you will notice that section 4 gives the President the power, never exercised in this or any other government, not even exercised by the legislature of any other government, to embargo every commodity except foodstuffs and medical supplies. He has a complete range of choice in those commodities. He can select oil and not copper——

The CHAIRMAN. One minute, professor: This bill, as we understand it, provides that the President shall select those things which he might consider necessary for use in war.

Professor BORCHARD. Yes, sir; but anything is used "in the conduct of war."

The CHAIRMAN. Do you not think the President will be just as honest as you are about it?

Professor BORCHARD. Yes, sir; but no man should have the power of regulating the entire foreign trade of the United States.

The CHAIRMAN. It is not the entire foreign trade of the United States; it is only the trade with the belligerents.

Professor BORCHARD. Pardon me, sir; as I read the bill, section 4, this admits of an embargo, beyond the discretionary quota to be fixed by him, without criteria from Congress, against "any neutral country", as well as "any belligerent country."

The CHAIRMAN. You will have to read that section to me. I have not observed that.

Mr. CALDWELL. Will you read that section of the bill?

Professor BORCHARD. That is in section 4.

The CHAIRMAN. I wish you would point that out.

Professor BORCHARD. I have a copy of the Senate bill before me.

The CHAIRMAN. That is all right; use the Senate bill.

Professor BORCHARD. I think they are both the same. It is in the first paragraph (a) of section 4.

Mr. KLOEB. How do you interpret the term "belligerent countries" in line 19, page 3?

Professor BORCHARD. A belligerent country is, of course, a country at war; but down further on page 4, line 6, it states "or to any neutral country." It provides not only for embargoes "to any belligerent country named in the proclamation"—and I will have something later to say about that—but it states "or to any neutral country for transshipment to or for the use of any such belligerent country in excess of a normal amount", which means any country in the world. You can ship, for example, from here to Canada, and Canada will ship to Great Britain, and that is entirely within the terms of this bill—or to Mexico, or any other neutral country.

The CHAIRMAN. The purpose of this, if you are going to stop that trade, was to stop it from going to a belligerent country, and we put that provision in to protect the situation when the President knows it is intended for a belligerent country.

Professor BORCHARD. Yes, sir; but it means putting every neutral country on a quota, and that will have to be done, I think. If, for example, only the goods shipped to Holland and Scandinavia were caught, buyers and sellers would soon find other neutrals. You are reversing the historical policies of the United States.

Thus it is not merely Holland and Scandinavia that are affected if, say, Germany is at war. You put those neutral countries on a quota, thus probably violating commercial treaties at once; but the same precaution must be taken with respect to Spain, Venezuela, and so forth, for reshipment purposes.

The CHAIRMAN. What language would you put in there, if you think that is true?

Professor BORCHARD. I would not put any language in there. You are, I fear monkeying with an exceedingly complicated matter that is more likely to bring about than prevent a war. My suggestion is that you strike out section 4 completely, as one of the most dangerous and needless proposals ever advanced in the United States. Aside from the arms embargo in section 3, international law takes care of the situation for the United States, and will do so, if we have competent administration in the State Department.

The CHAIRMAN. In other words, you would strike out this section giving the President the right to declare an embargo and leave that as the international law exists at present?

Professor BORCHARD. Yes, sir.

The CHAIRMAN. That is your position?

Professor BORCHARD. Yes, sir; and that, I believe, is the safest position for the Nation. We will play havoc with all our commercial treaties with this section and, moreover, drive the foreign trade of the United States elsewhere even in time of peace.

The CHAIRMAN. You believe that freedom of the seas, under international law, is adequate?

Professor BORCHARD. Yes, sir. By this bill you play directly into the hand of the belligerent in control of the seas. You are simply placing a premium on unlimited force. That is not the way to maintain either peace or self-respect. If you go out on the street and say, "Anybody can insult me and do anything they like to me; I will not resist", they will take your clothes away. That is not the way to gain self-respect and peace.

That is not a sound policy. I will venture to suggest what this section can accomplish. Mr. Krock, of the New York Times, points that out, and I have it in my memorandum.

I wish we could get rid of the psychology of trying to "serve the world." We only serve it as a doormat, and we are used by foreign powers as an instrument of their national policies. We should stop that. The end of this trail is the end of the United States.

I am frank to say to my good friend, R. Walton Moore, that if we want to keep our country independent, beware of temptations such as this bill.

The CHAIRMAN. I will let your friend Tinkham ask you about this provision, because I do not think he is in accord with you.

Mr. KLOEB. To what greater extent is such a policy playing into the hands of a belligerent who controls the seas than we would be playing into the hands of that belligerent with a complete policy of freedom of the seas?

Professor BORCHARD. Under international law, by permitting those who can to buy in this market, you give a chance to the weak countries to defend themselves against oppression by the strong. This bill would reverse that order by further penalizing the weak.

Mr. KLOEB. You are against embargoes?

Professor BORCHARD. Yes, sir; in principle; for reasons I will mention; but I will concede, for political purposes, to meet public opinion in the country, an arms and ammunition embargo may be tolerated. I will concede that.

The weak countries, which should have the same right of existence in the world, cannot establish their own arms and munitions factories; therefore, they must have the right to buy arms and munitions somewhere, as the need arises; that is the only chance of protection they have against extinction by the stronger or other powers. You are not penalizing the strong powers who do not need these war materials; you are penalizing the weak powers. This bill is an excellent method of assisting the strong to become relatively stronger and the weak to become relatively weaker.

Mr. BLOOM. But after they buy the arms and munitions, how do they get them shipped?

Professor BORCHARD. International law speaks very plainly on that point. International law permits the enemy to capture and confiscate them, if they can.

Mr. BLOOM. Do you think, in a great war, international law would cover these things?

Professor BORCHARD. In my opinion, if administered by competent officials, it will.

Mr. BLOOM. Does that apply to the last war?

Professor BORCHARD. It would have; yes, sir.

Mr. BLOOM. Was it not trade that got us into the last war?

Professor BORCHARD. It was not trade that got us into the last war, if I may respectfully say so; it was executive incompetence that caused this Government to take positions it should not have taken. We should not have sent a *Lusitania* note; we should not have sent a *Sussex* note. Those were British ships. Such a prohibition is incorporated in this bill now, 20 years too late, but it did not need to be incorporated in this bill. It is law already. Every man that went on the *Lusitania* took his life in his hands. The Germans gave public notice of their intention to sink this British ship. The State Department did not protest that; it acquiesced in it.

Yet in the result, we issued two ultimata that forced Mr. Wilson's hand and put him on a limb whence he could not withdraw.

It is often assumed it was trade, or even American interests, that forced us into the war; but it was actually incompetence, and against incompetence in the executive departments there is no statutory protection. This bill provides none.

The CHAIRMAN. May I ask you right there this question: This other section which declares an embargo on arms, and so forth—you would not favor that either?

Professor BORCHARD. If we were writing on a clean sheet, I would say that you could convince the country that that is unsound from the country's viewpoint; but it is too late, because there is such a public opinion back of it. Senator Nye and many other citizens are so strongly impressed with the necessity for this provision that we might as well have it.

I think, however, that very few countries will follow suit, so that the weak countries may possibly procure the arms they need; but, so far as it goes and if others follow suit, we are helping to make the weak countries weaker.

The CHAIRMAN. Will not it increase the manufacture of arms in the small countries?

Professor BORCHARD. Yes, sir; each country will on this policy ultimately have to manufacture its own arms. You will get an increased manufacture of arms and not a diminished use.

Mr. TINKHAM. Is it your opinion that early in the war the administration was not neutral; that is, the last war?

Professor BORCHARD. I would prefer not to discuss that.

The CHAIRMAN. I do not think that will reflect anything of advantage to the committee.

Mrs. ROGERS. How far do you think public opinion wants Congress to go in neutrality legislation? As far as the present law?

Professor BORCHARD. I do not think so. Comprehending the far-reaching effects of this bill, which I have not yet pointed out, they

would thoroughly understand that it is more important to preserve the United States than to embark on the quixotic and visionary trade restrictions embraced in this bill. I believe you could make the American people see that this is not in their own interests.

This bill speaks, in section 4, not merely of avoiding entrance into foreign wars, but of shortening foreign wars. Now, you are on dangerous territory when you try to use political and commercial measures in order to "shorten" a foreign war. You generally find that you are then in the war; you are taking sides. And that is almost inevitably so.

There is no man in this country to whose good faith and honesty I pay greater tribute than R. Walton Moore. There is no more honest man in this country. Yet he would be subject to pressure of all kinds to enlist him in the aid of one or another belligerent; and then, while ostensibly applying an embargo, say on oil, to Ethiopia and Italy, in an attempt to "shorten the war", the ineluctable result would be an attempt to defeat Italy the sooner. Now, when you shorten war in that way, you are participating in the war, and you give Italy the full right to resort to all kinds of reprisals.

Mr. Krock, of the New York Times, saw that.

This question involves a great historical background—

The CHAIRMAN. In other words, it is not easy to write a neutrality bill.

Professor BORCHARD. No, sir; it is not.

The CHAIRMAN. And can you not write a neutrality bill that will get you in war instead of keeping you out of it?

Professor BORCHARD. Precisely; therefore, the shorter the bill, the better, because international law takes care of most issues adequately.

There is a current psychology, of course, that every war is a world war, and that every war will be like the last one. Experience does not justify this view. But the unhappy part of it is that they have written treaties of peace that make new wars in Europe possibly inevitable. This is a bill designed to prevent our getting into those wars that they foresee, but I doubt whether this bill accomplishes that result. At least, it is not necessary for such purpose, so far as concerns trade restrictions.

Mr. GILLETTE. Who is this Mr. Krock to whom you have made reference?

Professor BORCHARD. A writer on the New York Times, a man of considerable influence in the country.

Mr. TINKHAM. If we have to write a bill, what would you say in relation to section 4—make it mandatory or optional?

Professor BORCHARD. If I were in the President's position, I would prefer that it be mandatory on me, because I could pass the responsibility for the results to Congress and escape the siege and importunities of the interventionists who always seem to have jobs for us to do in foreign countries.

Washington and Jefferson, I think, knew those conditions much better than we seem to, and we should not get far away from their teachings. Unfortunately, in these enlightened days they are often referred to as old fogies—a deplorable result of supposed internationalism.

Patriotism has suffered a great deal in the last 25 years, but without invoking that argument, I do not think it is wise to get entangled

in the buzz saw outlined in this bill. Now, this is what Mr. Krock says about this bill:

But the President and Secretary Hull * * * laid down a second objective—to reduce the risk of our being drawn into a war abroad by taking measures to shorten it * * * [the bill] provides limited economic sanctions in this country, to supplement complete economic sanctions against an aggressor by other nations, before a blockade is imposed.

Mr. MOORE. What language warrants that idea?

Professor BORCHARD. The language in section 4 of the bill which says that where the failure to—

The CHAIRMAN. I think it is practically agreed that we can strike that section out.

Mr. MOORE. It is of no significance; it may be stricken out.

Professor BORCHARD. All right; so much the better.

The CHAIRMAN. There has been no committee action on it, but I have agreed on that with Mr. Tinkham.

Professor BORCHARD. Everybody will agree that to shorten a war is a splendid idea, but when you undertake to embargo a commodity that will injure particularly one belligerent, you are participating in the war by helping to beat one side. That is a way to shorten a war, admittedly. But that is not a neutral's privilege. A neutral may not do that. The philosophy of minding your own business is one of the most difficult principles now to purvey. It is almost in disrepute.

Mr. TINKHAM. If we make an embargo mandatory and we do not participate in behalf of one or the other, except as their geographic position may—

Professor BORCHARD. At least, then, the responsibility is that of Congress, and, as I think these are war-making provisions, I think the responsibility should rest there.

The CHAIRMAN. Do you advocate an embargo?

Professor BORCHARD. No, sir.

Mr. TINKHAM. But if you were writing this section 4, you would rather have the embargo mandatory than permissive as to the Executive?

Professor BORCHARD. Yes, sir.

Mr. JOHNSON. But you would rather have no legislation on that?

Professor BORCHARD. I would rather strike out section 4 altogether.

Mr. JOHNSON. Do you favor any neutrality legislation, or do you think we would be better off with none?

Professor BORCHARD. Well, I will answer that this way: If you had a man like John Bassett Moore in the State Department I would favor none at all.

The CHAIRMAN. We have a Moore in the State Department.

Mr. JOHNSON. But without John Bassett Moore, you favor none?

Professor BORCHARD. Yes, sir.

Mr. MOORE. Well, I thank God I am not as old as he.

Professor BORCHARD. But think of that great international authority who has not been consulted in the drafting of this bill.

Mr. JOHNSON. But we have consulted Professor Borchard.

Professor BORCHARD. That is not the same thing.

Mr. TINKHAM. He has written a letter that is in the possession of Senator Johnson, and I am hoping to get that letter and, with Senator Johnson's permission, to read it to the committee.

Mr. MOORE. I hope you will get it and read it to the committee.

The CHAIRMAN. I understand that the State Department was thoroughly familiar with his views when they tried to draft the bill.

Mr. JOHNSON. When you testified before our committee before, at the last session, you read a letter—a rather voluminous letter—from John Bassett Moore, expressing his views on neutrality and I have that here before me. He has not changed his views since that time, has he?

Professor BORCHARD. I do not think so.

Mr. JOHNSON. You have not changed your views, have you?

Professor BORCHARD. No, sir.

Mr. JOHNSON. When you were here last you were criticizing neutrality legislation.

Professor BORCHARD. Yes, sir. The bill was bad, I regret to say, and the Senate seems to have thought so as well.

Mr. JOHNSON. You are just a chronic critic of neutrality legislation, are you not? Is not that your position?

Professor BORCHARD. That is unfair, I think. I have in public print approved a short neutrality bill like that of August 1935.

Mr. JOHNSON. I do not want to be unfair, but when a man comes here criticizing and says that he cannot approve any form of neutrality legislation, it is not likely that we will get any constructive criticism from him, is it?

Professor BORCHARD. No, sir; that is not so. I recommended and supported practically the whole of the 1935 bill, and would have gone slightly further, to make sure that the Executive will support international law. A short bill could easily be drafted.

Mr. JOHNSON. What, briefly, will it contain?

Professor BORCHARD. It will contain an arms embargo as well as a prohibition of loans to belligerents. I would warn American citizens off belligerent ships, and I would deprive American citizens of their diplomatic protection if they take passage on belligerent ships; I would also include a provision that American citizens should lose their citizenship if they enlist in foreign armies; United States ports should not be made a source of supply for belligerent vessels at sea and belligerent submarines and armed belligerent merchantmen should be treated as warships in American ports.

Mr. JOHNSON. You would not prohibit the exportation of any commodities to belligerent countries, either arms, munitions, or otherwise?

Professor BORCHARD. I said arms.

Mr. JOHNSON. But you would not extend it beyond that?

Professor BORCHARD. No, sir.

Mr. CALDWELL. How about foreign loans?

Professor BORCHARD. Foreign loans really take care of themselves. Hardly any of the European countries are worthy of credit, but if you want to make sure of that, prohibit loans being raised in the United States. That, by the way, is sufficient insurance against excessive or abnormal trade, if that is a considered objective.

Mr. JOHNSON. You say that you think you are justified in passing a law prohibiting the exportation of arms and munitions but nothing further than that?

Professor BORCHARD. Yes, sir.

Mr. JOHNSON. How do you justify that? Is it not true that frequently other commodities are just as vital in the prosecution of wars as arms and munitions? If one is justified, why not the other?

Professor BORCHARD. Because arms, munitions, and implements of war are useful only for military purposes while other commodities are also consumed by civilians; and because neutrals have a right to trade and live. History and law answer the question.

Mr. JOHNSON. You think there should be no legislation prohibiting the exportation of anything except arms, munitions, and implements of war?

Professor BORCHARD. Yes, sir; I think so.

Mr. GRAY. May I ask the witness a question?

Professor BORCHARD. Certainly.

Mr. GRAY. Are you in favor of complete freedom of the seas during a war?

Professor BORCHARD. As complete as the history of the United States indicates is sound, and as complete as the famous—

Mr. GRAY. Can you explain how you can preserve peace by holding the seas open for a free-for-all fight by everybody?

Professor BORCHARD. No belligerent has the right to say to all the rest of the world, "We have now lost our heads and have gone to war; therefore, the rest of you countries keep off the seas. This is our private domain."

Mr. KLOEB. But they do that.

Professor BORCHARD. Not if you understand your rights and stand up for them; and the United States has less reason to fear it than anyone else.

The CHAIRMAN. You believe in a good Navy?

Professor BORCHARD. Yes, sir. Why, under the kind of legislation in this bill, you must have a good Navy.

The CHAIRMAN. But if you do not have this kind of legislation, even so, you believe in a large Navy?

Professor BORCHARD. Even so.

The CHAIRMAN. Do you not think that is about the strongest neutrality act we could have—a big Navy?

Professor BORCHARD. Yes, but I do not believe you have to use your Navy, if you know how to handle your legal position as a neutral.

The neutrals also have a right to the use of the seas. The neutral citizens have a right to live. When you tell them they have no right to trade, you tell them they have no right to eat. Read some of the books on earlier embargoes that the Library of Congress has listed in this pamphlet and you will see what I mean.

By this legislation you will turn your people against your Government. That is not good administration. It is easy to write these prohibitions, but when you come to see what they mean, it is frightening. Belligerents have not this right and have never claimed it.

In the last war Great Britain was closer to the life line than at any time before. She reached out beyond the law and got the United States' protection in diplomacy and military aid. That has put a tremendous premium on naval force.

Mr. GRAY. Is it not true that over the freedom of the seas we have become involved in every war?

Professor BORCHARD. No, sir. The only interference with real freedom of the seas in trade matters was from Great Britain from August 1914 to April 1917, but we did not get into war with Great Britain—not then and not afterward, and yet those were the only

real issues involving freedom of the seas. The submarine involved a different issue, not touched by this bill.

Mr. GRAY. Did we not have a war in 1812 over freedom of the seas?

Professor BORCHARD. I think not. If you will consult Julius Pratt's book on the War of 1812 you will find the answer to that question. The title is, I believe, "The Expansionists of 1812."

Mr. GRAY. What was it?

Professor BORCHARD. It was due to our attempt to extend our territory into Canada and the Southwest and Southeast. It did not involve freedom of the seas, except ostensibly; even the impressment issue had nothing to do with trade.

In my opinion, section 4 should go out, not only for the reason that I mentioned, but because of an infinite variety of other reasons. You will note that this contemplates an embargo on not only contraband goods, but all goods. It covers any goods except foodstuffs and medical supplies.

Mr. JOHNSON. The doctrine of the freedom of the seas has certain limitations, even under international law, has it not?

Professor BORCHARD. Yes, sir; certainly.

Mr. JOHNSON. In other words, a country at war would have the right to stop a neutral ship to search it if they thought it had contraband goods on board?

Professor BORCHARD. Yes, sir; and to confiscate the contraband.

Mr. JOHNSON. There are recognized limitations imposed by international law?

Professor BORCHARD. Yes; absolutely.

Mr. JOHNSON. What other limitation is there?

Professor BORCHARD. A neutral must submit to a legal blockade. It has been assumed that we undertake, by passing this legislation, to defy a legal blockade. Of course that is not true. We do not have to follow the League in imposing sanctions, the war-making machinery of article XVI. But I doubt whether that will long survive, under the traditional divisions of European politics.

Mr. JOHNSON. I think you said section 4 was not limited to goods that were even conditionally contraband.

Professor BORCHARD. Yes, sir.

Mr. JOHNSON. On page 3, line 19, section 4 says:

of certain articles or materials used in the manufacture of arms, ammunition, or implements of war.

Professor BORCHARD. Yes, sir; but the next clause is "or in the conduct of war."

Mr. RICHARDSON. Would not all those be declared contraband?

Professor BORCHARD. You cannot tell. Anything that is used "in the conduct of war" covers any commodity. That is a layman's term.

Mr. RICHARDSON. Would you not say that practically all those articles were on Great Britain's contraband list during the World War?

Professor BORCHARD. Without knowing what is covered, I cannot say. She was unreasonably expansive in her contraband lists. We should not have accepted that.

Mr. RICHARDSON. But we submitted to that.

Professor BORCHARD. Yes, sir; I fear we did, except as to continuous voyage. But Canada would not. Canada refused to submit to the British blacklist in 1916, when the United States did.

Mr. JOHNSON. Who has the right to declare a thing contraband?

Professor BORCHARD. Only the belligerents in the first instance.

Mr. JOHNSON. What do you mean by "in the first instance?"

Professor BORCHARD. They publish the list.

Mr. JOHNSON. But the neutrals do not have to accept it.

Professor BORCHARD. No, sir.

Mr. JOHNSON. Cannot an agreement be made in peace time defining what is contraband?

Professor BORCHARD. Yes, sir; there was an effort made in the Declaration of London to define the three traditional categories.

Mr. JOHNSON. Was that accepted by the other countries?

Professor BORCHARD. Yes, sir; but Great Britain decided to abolish it in 1914. She had not ratified.

Mr. JOHNSON. Is it not true that every country, when war comes on, if international law is in conflict with what they conceive to be their interests, will set it aside?

Professor BORCHARD. No, sir; it is not true, if I may venture to seem to contradict.

The United States did not set it aside in the Spanish-American War or in the Civil War; nor did the English in the Boer War, nor did Germany and France in the Franco-Prussian War. It is only in the last war that that occurred.

Mr. TINKHAM. And the reason was that that was a very long and involved war.

Professor BORCHARD. Yes, sir; and I do not think there will be any 4-year European war for a long time to come.

Mr. GILLETTE. You suggest we should have refused to submit to the list of contraband drawn up by one of the belligerents?

Professor BORCHARD. Yes, sir.

Mr. GILLETTE. By what method?

Professor BORCHARD. By diplomatic means or through reprisals.

Mr. GILLETTE. Threatening reprisals is really a threat of war, is it not?

Professor BORCHARD. No, sir; nor in principle is it anything like as dangerous as what we have here. It is like playing a game of chess, and one must understand the game.

Mr. GILLETTE. But you are playing chess with human lives.

Professor BORCHARD. Not necessarily. But skill is essential.

Mr. KLOEB. In other words, your whole theory is that if we rely entirely on the freedom of the seas and remain good poker players we can stay out of war?

Professor BORCHARD. Yes, sir; if we want to keep out of war. Secretary Lansing apparently wants to go down to posterity as the man who wanted us to go to war in 1915 to save democracy, with the help of the Czar of Russia and the Mikado of Japan. He was not neutral. It must be remembered that there were several countries that did keep out of the war.

Mr. LAMBETH. How did they keep out of the war? Did they have rigid neutrality laws? On account of their geographical location, they were naturally in jeopardy in maintaining peace; therefore.

will you give the committee your views as to the methods they used to keep out of the war?

Professor BORCHARD. Well, they did it by two means; first, the use of common sense and, second, a knowledge of international law. Holland had a man named Strycken, who conducted the diplomatic correspondence on all legal questions, and little Holland was able, by sheer intellectual power and knowledge of the law, to keep British armed merchant ships out of Dutch harbors. That shows that when you know international law and know how to assert it, you can keep out of war.

Mr. GILLETTE. When you want to keep out of it?

Professor BORCHARD. Yes, sir.

Mr. GILLETTE. Was there not an intensive propaganda to get this country into the war?

Professor BORCHARD. Yes, sir; I think so.

Mr. CHRISTIANSON. In other words, we got into this war because we wanted to get into it.

Professor BORCHARD. Influential groups did.

Mr. RICHARDSON. Is it not a fact that Holland and Sweden stayed out of the war at the expense of their neutrality—there was a blockade by Great Britain of the neutrals and they did not oppose it? In other words, they had to give up some of their neutral rights.

Professor BORCHARD. Yes, they yielded in part to force; but I just gave you an illustration of one right that they insisted on most effectively, and obtained. In January 1916 Secretary Lansing, or the Neutrality Board, wrote our best note, on armed merchantmen, and in March of 1916 they completely recanted. We seemed unwilling or unable to adhere to a sound position.

Mr. SHANLEY. What I want to know is, did they have a rigid neutrality law or was it a policy of government by common sense?

Professor BORCHARD. It was a combination of both.

Mr. SHANLEY. It was the latter rather than the former?

Professor BORCHARD. Yes, sir.

Mr. SHANLEY. They continued to trade with the belligerents?

Professor BORCHARD. Yes, sir.

Mr. SHANLEY. Did they place an embargo on any commodities?

Professor BORCHARD. In an indirect way they had to, because they were rationed by Great Britain as to what they could get.

Mr. SHANLEY. They did not have the raw materials to manufacture them themselves?

Professor BORCHARD. No, sir; and by reason of the physical facts, they were unable to ship munitions into Germany.

The CHAIRMAN. All right; let us get down to section 5.

Professor BORCHARD. As I said in my general statement, there is no objection to prohibiting the raising of loans in this country and that is what I take it section 5 accomplishes. There is no objection to that. It is almost declaratory of what happens anyhow. Very few countries have any credit now. The Johnson Act is still the law; but I assume to some extent this will, if passed, supersede the Johnson Act. There is no vital objection to that.

Section 6 is a great concession to the point I tried to make 2 years ago—equal application of any measures to all belligerents. That is fundamental, but as I stated, section 4 enables the Executive to

overcome that equality in practical effect; section 4 gives all the leeway anyone wants, to be unneutral.

Now, in section 7, as in others, the words "for the use of" should be taken out. What is meant by the words "for the use of, such belligerent country?"

The CHAIRMAN. Where is that?

Professor BORCHARD. Section 7 and in section 4 and I think in section 3—"for transshipment to, or for the use of, such belligerent country."

I never heard of such a ground for barring a shipment. That ought to go out, and, as I suggested "transshipment", should go out. If you want to prevent transshipment of arms, why not confine it to shipment into contiguous countries? The doctrine of continuous voyage or transport does by international law apply to arms and munitions, but not to raw materials or even to goods conditionally contraband.

Mr. JOHNSON. In the opening of your statement, Professor Borchard, I understood you to say that the proposed legislation delegating discretionary power to the President with reference to exports was unprecedented in our history and violated our history in that regard. Is that correct?

Professor BORCHARD. I think Jefferson never had as wide power as this to embargo—

Mr. JOHNSON. I am not speaking of Jefferson; I am speaking of the history of the entire country.

Prof. BORCHARD. Yes, sir.

Mr. JOHNSON. Are you not familiar with the law which was passed in 1898, when McKinley was President, which is a very brief statute and was in effect for some years? It reads:

The President is hereby authorized in his discretion, and with such limitations and exceptions as to him may seem expedient, to prohibit the export of coal and other material used in war from any seaport of the United States until otherwise ordered by Congress.

Prof. BORCHARD. First, that is limited to coal and similar material and was enacted when we were at war.

Mr. JOHNSON. No; "or any other material."

Professor BORCHARD. That was intended only for conservation of our resources as a belligerent and had no relation to neutrality. Nor did it cover all foreign trade. We prohibited such exports during the Civil War.

Mr. JOHNSON. That is what we are intending by this.

Professor BORCHARD. I beg your pardon. This refers to shipments to any neutral country of any commodity used "in the conduct of war", except food and medical supplies.

Mr. JOHNSON. But did you not overlook this statute when you said the proposed legislation is opposed to any of the legislation of the past?

Professor BORCHARD. That had escaped me for the moment. But it has no bearing on our subject of neutrality.

Mr. JOHNSON. This gives the President discretion, and it was the law until 1912. It was the law from 1898 to 1912—14 years—and under that law Theodore Roosevelt, subsequently President, issued a proclamation prohibiting the exportation of coal, I believe, to

Puerto Rico. It was not limited to American countries. It was world-wide in its application.

Professor BORCHARD. It never purported, however, to extend the embargo to neutral countries. It was a war measure on our part, not a neutral measure. Coal was limited in supply as an aid to warships by neutral Great Britain in 1862. Neutrals by the Hague Conventions limit the supply of coal to visiting warships. Many countries do by municipal legislation.

Mr. JOHNSON. This was not limited to coal. It was any other materials used in war, and it applied to either neutrals or belligerents and the President could apply it to one country and not the other.

Professor BORCHARD. On its face it is broad, but you must read it in connection with its context. It was a war measure, a conservation measure, mainly to prevent American coal reaching the Spaniards. It should have been repealed after the Spanish-American War; only by inadvertence was it left on the books. It is irrelevant to our subject.

Mr. JOHNSON. The purpose of the legislation is to prohibit shipments to belligerents.

Professor BORCHARD. Yes; but it covers shipments to neutrals for transshipment. Just think of the enforcement of that. If you send a cargo from here to Venezuela, and Venezuela sells it abroad, how are you going to enforce this provision? It seems to me the administration of this statute imposes an insuperable burden, and that it is impractical.

Moreover, we are likely to begin to lose our markets the minute this bill is passed. We are no the only country in the world. Other countries can supply even cotton, and even now Brazil is developing, to a high degree, her cotton culture. Prospective neutrals and other countries will develop their markets elsewhere even in time of peace. And how is the President going to divide up the permitted normal trade among our suppliers?

In my opinion, these sections are a great contribution to self-sufficiency. You frighten the countries of the world into believing that markets are going to be closed to them at the whim of the Executive any time they fall into disfavor. It is something that is too dangerous to fool around with—and for what purpose? For the visionary purpose of limiting war and profits. Has anybody shown that such a purpose can be realized by trade embargoes? Nobody has apparently thought through the full effects of this legislation; nor has anyone apparently made the statistical studies which must be made, nor has anyone apparently taken into account all the other countries and what they are doing or will do in this direction. Such a revolutionary policy should be studied for years.

Mr. MOORE. And in the meanwhile, while studying it for years we may be involved in a war and have countless numbers of our young men sacrificed. I should like to ask one or two questions.

The CHAIRMAN. Yes; I should like to ask the committee to grant permission to Mr. Moore to ask the witness several questions.

Mr. MOORE. I know perfectly well I do not possess the ability of John Bassett Moore and do not have his knowledge of international law. What we have been trying to do, however, incompetent as we are in the State Department, is to endeavor to apply com-

mon sense to a demand that seems to be made by American public opinion for domestic legislation that would tend in the direction of preventing us from being involved in war. That has been our one thought.

Now, as I understand from you, you really, in the final analysis, would prefer not to enact any legislation except the very briefest legislation, and place your dependence on international law for the future.

Is it not true that when a widespread war occurs, that international law is ignored and flouted? Was not that true in the World War to a very large extent? Is it not true today about international law, in the case of war, as when Virgil spoke about it, that "in the midst of war, law is silent"? Is not that a fact?

Professor BORCHARD. No, sir.

Mr. MOORE. You do not think so?

Professor BORCHARD. No, sir.

Mr. MOORE. I have thought so from such observations as I have made and the public seems to think so.

The public thinks it is time for legislation, first, to avoid entangling us in war and, second, for the avoiding of war profiteering—the acquisition of enormous profits by people who take advantage of the existence of war. That is the theory or basis on which the State Department has worked and done its little part in drafting this bill.

Now, I have been unable to understand how, with your view, you can approve of the third section as proper and disapprove the fourth section.

Professor BORCHARD. The third section has to do with the export of arms, ammunition, and implements of war?

Mr. MOORE. Yes.

Professor BORCHARD. I am accepting it only for political reasons.

Mr. MOORE. And if it were left to you, you would strike that out?

Professor BORCHARD. Yes; that would be my preference, for numerous reasons which lack of time forecloses me from discussing.

Mr. MOORE. If you were drawing the bill, you would strike that out?

Professor BORCHARD. Yes, sir; if I were not limited by extraneous conditions.

The CHAIRMAN. As I understand you, you would not draw any bill.

Professor BORCHARD. No, sir; I would draw a short bill merely to guide the Executive.

Mr. MOORE. Your bill, to use Shakespeare's language, would be as brief as woman's love?

Mr. FISH. Mr. Chairman, I object to Mr. Moore's asking questions while members of the committee are denied that right.

(Discussion off the record.)

The CHAIRMAN. I stated that Mr. Moore could ask questions if there was no objection.

Mr. MOORE. I asked permission to ask these questions, but I defer to Mr. Fish.

Mr. FISH. It seems to me there are two issues involved, namely, whether you should lay an embargo on arms, ammunition, and im-

plements of war, or whether you should lay an embargo on cotton, oil or coal or lumber, clothing, etc.

Now, in the first instance, it is generally accepted that you are able to lay an arms embargo. The real question before this committee comes down to whether you should lay on economic embargo on coal, etc.

Before you answer the question, I believe, in Mr. Moore's question, I would like to ask you this: Have we not entered into treaties with most of the civilized nations, stating that we would not lay embargoes on such things as coal, oil, etc.?

Professor BORCHARD. We have provided in commercial treaties that reciprocal trade shall be free and this section 4 would play havoc with every one of those commercial treaties. We would soon find ourselves in unfriendly relations with much of the rest of the world, if the act were enforced.

I have devoted all my time to an analysis of section 4. You can leave in the arms embargo and the war profiteer you can get by taxation. You can tax him up to 100 percent, I believe, and they did nearly that, I think, in the late war. But why legislate such an important piece of legislation as this on the theory that every war is going to be a world war? Every treaty and every rule of law is not violated in every war. The many, many instances of observance of law are not heard about. That isn't news.

Mr. JOHNSON. Have not the countries that have signed the Kellogg pact violated it?

Professor BORCHARD. You cannot legally violate the Kellogg pact. That is a preposterous pact, with an escape clause for self-defense as wide as the two articles of the pact, without the explanatory notes.

Mr. JOHNSON. Have not countries violated their obligations to pay us, in peace time?

Professor BORCHARD. Yes, sir.

Mr. JOHNSON. Is it not the spirit of this age to violate any treaty by any country?

Professor BORCHARD. I would not want to go that far, but respect for the law has suffered enormously in late years.

Mr. FISH. I do not believe you are willing to advocate any such proposition as that we should deliberately abrogate or violate the written contract.

Professor BORCHARD. Certainly not.

Mr. FISH. If we have a written treaty that we would not embargo—I am not talking about munitions, etc.—but when we say we will not lay an embargo against a nation, whether at war or during peace, we cannot do it without violating that?

Professor BORCHARD. Certainly. If Mr. Moore will bear with me, I think we were violating the treaty with Italy by officially discouraging trade with Italy. That stated that reciprocal trade should be free. That means not discouraged by one of the parties.

Mr. MOORE. May I ask a question?

The CHAIRMAN. Have you any objection to Mr. Moore asking a question? All right, Mr. Moore.

Mr. MOORE. We got off onto a side issue when Mr. Fish was interrogating you about treaties.

Professor BORCHARD. Yes, sir.

Mr. MOORE. I saw an article in the New York Times, written by you, in which you said that section 3, as applied to arms, munitions, and implements of war, was permissible without any reference to the treaty—that international law permitted that.

Will you give me your authority for that view?

Professor BORCHARD. It is elementary law. The fact is that eight countries of the world have done it in their peace-time legislation, prohibiting the export of arms, munitions and implements of war, when they were neutral and other countries at war. In time of war, neutrality imposes and permits a series of neutral measures designed to prevent military aid to either belligerent. A permissive arms embargo is one.

Mr. MOORE. I do not know what treaties those countries had at that time.

Professor BORCHARD. They had the usual commercial treaties I assume.

Mr. MOORE. I do not know whether they had or not. I am asking you now for some authority, because we have searched for it for days in support of your opinion that section 3 is permissible, whereas section 4 is not permissible.

Professor BORCHARD. Yes, sir; because the neutral's duty is not to aid militarily either belligerent, and he is privileged to cut off trade in munitions of war. The Italian treaty so limits the definition of contraband.

Mr. MOORE. I cannot find a single thing that says that.

Professor BORCHARD. It is as elementary as the rule that contracts must be observed. You do not find much discussion of that rule, either.

Mr. MOORE. Oh, yes.

Professor BORCHARD. The authority also lies in actual practice. Eight countries have done it.

Mr. MOORE. Eight countries would not make international law.

Professor BORCHARD. It is fundamental.

Mr. MOORE. But I want to know your authority.

Professor BORCHARD. It has been done from the beginning of the nineteenth century. But I am sure I can find you also opinion authority.

Mr. FISH. Is the State Department the best authority for that?

Professor BORCHARD. Did you get any protest over the act of 1935?

Mr. MOORE. We did get a protest.

Professor BORCHARD. I would like to see it. General acquiescence by other powers in the act of 1935 is some evidence of the rule.

Mr. MOORE. It is not a conclusive argument. I am asking you to spot the international authority.

Professor BORCHARD. I do not have a library at my side. I dare say Dr. Hyde would concur; I am confident Judge Moore agrees, for we have discussed it. The exception has been written into commercial treaties on occasion, e. g. Art. 20 of the treaty with Haiti. But it is not necessary to make an express exception; it is implied.

Mr. MOORE. I do not believe Mr. Hyde has it in his book. I have his book on my table.

Professor BORCHARD. If he has not, then it is so elementary that he must assume everyone knows it. But if the arms embargo violates the commercial treaties, as you seem to think, but I do not, a fortiori you must conclude that commodity embargoes do.

Mr. MOORE. Then, I am at fault, because I do not know the elements. But that is not what I want to talk to you about. I want to talk about something else, and that is section 4. You say you do not want section 4.

Professor BORCHARD. I think for the country that is advisable.

Mr. MOORE. If you think it has to be done, you think it should be mandatory?

Professor BORCHARD. I would do that to save the executive sleepless nights.

Mr. MOORE. On the one hand; and on the other hand, you think it would destroy our trade?

Professor BORCHARD. You mean if you made it mandatory?

Mr. MOORE. Yes.

Professor BORCHARD. The minute war broke out, I think, the country would be so sick of it they would demand repeal at once.

Mr. MOORE. Well, let us see; you say you would have section 4—

Professor BORCHARD. That is for political reasons.

Mr. MOORE. Well, I am not a politician. A fair deduction from your statement is that in case you had the mandatory provision there instead of the permissive provision in section 4, that would largely destroy our trade, because you say everything is included in section 4.

Professor BORCHARD. No; I accepted section 4 as mandatory, as the lesser of two evils. Sound judgment tells me that nothing beyond arms, ammunition, and implements of war should be embargoed.

Mr. FISH. I would like to say something that is important for the convenience of the witnesses. We have to adjourn at 12 o'clock because of an important bill that we know is coming up.

There are other witnesses from out of town. I think Mr. Tinkham should advise with them immediately as to when they can go on.

We can proceed with these gentlemen until 12 o'clock, but with Mr. Moore asking questions—

Mr. MOORE. I have only one more question. May I ask that?

Mr. FISH. Certainly, as far as I am concerned.

Mr. MOORE. I have sat at the feet of the professor since I have been in the State Department. The professor is an expert and I am only a common-sense individual. I live in the country of George Washington and I think nobody more than George Washington exhibited common sense and I have thoughtfully tried to follow his example.

I have had a great deal of interesting correspondence with the professor as well as a great many agreeable conversations with him. Professor, would you object to my reading one paragraph from a letter I received from you?

Professor BORCHARD. No, sir; I would not.

Mr. MOORE. You say this—you paragraph this and this is paragraph no. 1. [Reading:]

A prohibition of the shipment of munitions of war (to be defined along the lines of the Wickersham opinion) to all belligerents in a war in which the United

States is neutral. This might be made subject to a further resolution of Congress bringing the statute into force or, if Congress is willing to delegate this function to the President, subject to a proclamation of the President.

There you are favoring legislation that would carry the power in section 4, applicable to all the things defined along the lines of the Wickersham opinion. The Wickersham opinion was not confined to arms, munitions, and implements of war, but extended away beyond that. It extended to a great many things which would be included in section 4.

Mr. Hackworth can tell you some of the things mentioned, such as saddles, bridles, copper, flour, oil, et cetera—those things were in the Wickersham opinion.

Professor BORCHARD. He was trying to define the term "arms and munitions of war." It is in 29 Opinions of the Attorney General. I am confident you will not find "copper, flour, oil, etc." mentioned in it.

Mr. MOORE. We can produce the Wickersham opinion to show that the Wickersham opinion covered, in large part, the things the President would be expected to deal with in section 4.

Professor BORCHARD. It covers what might be included in section 3, the arms section, but not what is covered by section 4, the commodity section. Arms, ammunition, and implements of war are all that I would embargo.

Mr. MOORE. You, as a great expert, were telling me as a very poor—as you might say—a very incompetent person—

Professor BORCHARD. I never said that.

Mr. MOORE. You said a while ago that the State Department was showing great incompetence, and you were discussing with me along the lines of the Wickersham opinion, and I could only take the Wickersham opinion and I found that a great enumeration of articles—

Professor BORCHARD. What are implements of war may be subject to a difference of opinion, but not a very wide one. The Traffic in Arms Convention of 1925 defines the term adequately.

Mr. MOORE. The Wickersham opinion took in everything that you could take in as munitions of war.

Professor BORCHARD. That is all he was trying to say, and that was the limit. You will not find commodities like "flour, copper, oil," etc., mentioned in it.

Mr. MOORE. He did not stop with the general term, but enumerated them. If you take the Wickersham opinion's list you will find it a most extensive enumeration. You know it better than I.

The CHAIRMAN. We will have the Wickersham opinion.

Mr. FISH. Mr. Chairman, three important witnesses have come down from New York. I am going to ask Professor Borchard if he can stay over until tomorrow.

Professor BORCHARD. No, sir, I cannot; I will file with the committee my analysis of this bill. I have simply brought out the important features. I am opposed also to the "trading at your own risk" provision and keeping American vessels off the seas. There is no sense in it and no peace in it, in my opinion. If you take those things out, the rest of the bill is not so bad. But I should like to see the addition of Mr. Shanley's amendment keeping armed belligerent merchant vessels out of our ports, except on the status of warships.

The CHAIRMAN. We will take your memorandum and study it.

Mr. LAMBETH. I am trying to preserve a neutral attitude toward this legislation and toward other members on the committee. I am going to ask you this question, Mr. Borchard:

Under article 16 of the League Covenant, there is a provision that when a member resorts to force it is, ipso facto, an act of war against other members of the League. Now, in that sense, technically Italy is at war with Britain and France—technically.

Professor BORCHARD. That would, I think, depend on how Great Britain considers it.

Mr. LAMBETH. I want to ask you this question which, to me, is very important, subject to the opinion of somebody who is an authority on the subject.

If that is true, if Italy is technically at war with Britain and France, then the reverse is true that Britain and France are technically at war with Italy and, therefore, they might be considered what might be termed nonaggressive belligerents. As such, would it be possible, taking an extremely legalistic and technical view of section 3, that the President would be forced to apply an embargo against Britain and France?

I would like to have you comment on that.

Professor BORCHARD. Under this act, the President is the judge of whether war has broken out. As and when he considers there is war involving Great Britain and France, he will proclaim that fact and thereupon the arms embargo goes into effect, as I understand it.

Mr. LAMBETH. Therefore, if there is any doubt on that point, it is highly essential that the language beginning at section 3 vest in the President such discretionary power as might be indicated by this, whenever, in the judgment of the President, war has broken out?

Professor BORCHARD. Yes, sir.

Mr. TINKHAM. There is just one question. You said section 4 would practically eliminate our business. You mean our business with belligerents? Of course, that is not true with respect to neutrals.

Professor BORCHARD. No, sir; I mean with neutrals. It may not eliminate it, but it seriously impairs our business with neutrals, too. Every shipment must be watched and controlled.

Mr. TINKHAM. Will you point out what clause provides that?

Professor BORCHARD. I read that—

Or to any neutral country for transshipment to or for the use of any such belligerent country.

And so forth.

Mr. TINKHAM. If it is not for a belligerent, then the ordinary course of trade obtains?

Professor BORCHARD. Yes, sir.

Mr. TINKHAM. We must determine whether it is for transshipment to a belligerent or not?

Professor BORCHARD. Yes, sir.

Mr. GRAY. Are you in favor of the prohibition of the shipment of munitions to belligerent nations? Are you in favor of that?

Professor BORCHARD. Yes, sir.

Mr. GRAY. Then why would you be opposed to the prohibition of shipments of munitions, and so forth, to neutrals for reshipment? Why would you be in favor of a shipment made indirectly that you would be opposed to if made directly?

Professor BORCHARD. I said it should be worded "contiguous countries." The way the bill reads now we could send munitions to Chile, and Chile could send them to Great Britain, and that is prohibited. The burden of proof in these cases is an important practical question of administration, and an American official should not have to inquire what Chile will do with the munitions.

Mr. GRAY. Would it not amount to the same thing?

Professor BORCHARD. No. I am trying to make the bill conform to international law.

Mr. GRAY. Are you not in favor of the prohibition of shipments direct to belligerent countries, but are opposed to the prohibition of shipments to neutrals for transshipment to belligerents?

Professor BORCHARD. As to arms and implements of war only. The only thing we are talking about is shipments to contiguous neutral countries if we can prove they are for transshipment to belligerent countries. I suggest the interpolation of the word "contiguous" in there.

But in section 4 I would bar the trade, if we must embargo, as to belligerent countries only, but not as to neutrals, because then we would have to regiment the trade of the entire world, and are revolutionizing international law.

Mr. GRAY. You would substitute the words "war materials."

Professor BORCHARD. I think munitions and implements of war a good term. That was defined in the Traffic in Arms Convention of 1925.

Mr. FISH. Has not that been defined also by the Department of State?

Professor BORCHARD. Yes, sir; I think it has been.

Mr. FISH. And for a number of years past?

Professor BORCHARD. Yes, sir.

Mr. FISH. May I ask you about your other witnesses—what witnesses can stay over until tomorrow?

Mr. TINKHAM. Professor Hyde cannot stay over; neither can Professor Borchard. Professor Harriman lives in Washington.

(The memorandum submitted by Prof. Borchard is as follows:)

MEMORANDUM ON S. 3474, AND H. J. RES. 422, THE PROPOSED NEUTRALITY ACT OF 1936

Preliminary considerations.—The bill is ostensibly a "neutrality" bill, but in section 4 the Executive is given an embargo power which may be used as unneutrally as he cares to. This embargo of any commodity (except foodstuffs and medical supplies) to belligerent and neutral alike (beyond certain discretionary quotas) places the entire foreign trade of the country under Presidential control. If it were true that trade caused our entrance into the last war—and it is not true—then a more complete mandatory embargo might be preferable. We can get into as much trouble with belligerents—there are very few belligerents who here seriously enter into consideration—over normal trade as over abnormal trade.

But there is a more fundamental objection to the bill. As Mr. Krock says in the New York Times of January 4, 1936, "Congress in the neutrality resolution (of August 1935) bent its energies and wrote its text solely to prevent

foreign entanglement. But the President and Secretary Hull * * * laid down a second objective—to reduce the risk of our being drawn into a war abroad by taking measures to shorten it. * * * [The bill] provides limited economic sanctions in this country, to supplement complete economic sanctions against an aggressor by other nations, before a blockade is imposed."

That tells the story. Without imputing anything but the highest motives and good faith to the President or Secretary of State, now or in the future, section 4 of the bill enables the Executive to embargo such materials as will shorten the war by bringing defeat to one side. This is the antithesis of neutrality. The Executive by section 4 exposes himself to the pressure and propaganda of those well-meaning groups who on every occasion seem to have special facilities for picking an aggressor, likely to be some revolter against an impossible status quo. No man should be asked to or should wish to assume such responsibility and discomfort. It is hardly possible to suppose, in actual fact, that the embargo will or can be used in any other way than further to bring pressure on the weak to submit to the strong.

On January 7, Mr. Krock adds: "Performing the functions imposed by the bill, and left to his discretion [the President], will be employing the power of the United States in a fashion most unneutral." So used, as proposed in the Italian episode of October and November 1935, it will invite retaliation from the belligerent actually if not avowedly discriminated against, if he is in any position to do so. We thus invite war abroad and conflict at home, in pursuit of a visionary objective called "shortening the war." The United States will thus become an "instrument of the national policy" of the stronger powers of Europe. The Congress would be unwise to vest the Executive with discretion thus, under the guise of neutrality, to make the United States an aid to one side in a foreign war, with all the risks of entanglement and participation therein involved. It is indeed unconstitutional.

Embargoes by the United States penalize the weak, promote autarchy and self-sufficiency, stifle American foreign trade even in time of peace, incite disorders and distress at home and promote that unhealthy psychology that makes for war. They are calculated to stimulate, not prevent, war and on practical considerations are more likely to get us into war than to keep us out. The bill furthermore plays havoc with the commercial treaties of the United States.

The act should be limited to the embargo on arms and on loans to belligerents. American citizens should lose their protection if they take passage on belligerent ships, American citizens should lose their citizenship if they enlist in foreign armies, United States ports should not be made a source of supply for belligerent vessels at sea, belligerent submarines, and armed belligerent merchantmen should be treated as warships in American ports. Beyond that the rules of international law, completely administered, would adequately take care of the United States and provide all the safeguards necessary to insure American neutrality.

The more challengeable provisions of the act will now be briefly reviewed.

Section 3. Prohibition on export of arms, etc.: If we must have arms embargoes, perhaps they ought automatically to apply upon the proclamation of the President that war exists, and not "upon the outbreak" or "during the progress" of any war. "During the progress" gives considerable Executive discretion possibly not here intended. The draftsmanship is poor. The Nye bill is preferable in this respect.

The prohibition of export of arms is extended not only to belligerent countries but "to any neutral country for transshipment to or for the use of any such belligerent countries." The doctrine of continuous voyage or transport has been applied by international law to "transshipment" of arms on captor's proof of destination, but there is no precedent for the use of the term "for the use of any such belligerent country." There is no need for such a modification of international law.

The prohibition is directed only "to any belligerent country, named in the proclamation." Suppose the President prefers not to name a belligerent country in his proclamation. It would then be lawful to ship to the country not named, but unlawful to ship to the country named. There seems to be no need for the phrase "named in the proclamation" which has in it the possibilities of Executive discrimination.

Section 4. Export of articles and materials used for war purposes: This is the most objectionable article in the whole bill. It gives to the President an absolute discretion to regiment the entire foreign trade of the United States

whenever any foreign war exists anywhere. The act gives him power to restrict the export of "certain articles or materials used in the manufacture of arms, ammunition, or implements of war, or in the conduct of war." The list is undefined and transfers to Presidential hands complete control over all trade except in "food or medical supplies." The list of articles that may be prohibited is not even limited to goods conditionally contraband.

Such a prohibition is unprecedented in history, and, as is apparent from section 16 of the act, it is recognized that such a prohibition would violate the commercial treaties of the United States. The alleged purposes "to promote the security and preserve the neutrality of the United States or to protect the lives and commerce of nationals of the United States" or where the failure to prohibit such export "would contribute to a prolongation or expansion of the war", indicate that this Presidential control over the trade of the United States can be used for practically any purpose the President desires.

We must turn to the past for guidance. The recent experience in the Ethiopian War with the proposed executive use of the embargo on cotton, oil, scrap iron, metals, etc., indicates how unneutrally this power could be employed. Especially the words "would contribute to a prolongation or expansion of the war" emphasize those moral and emotional impulses which it is now so fashionable to exploit as a method of promoting unneutrality. The defeat of Italy was apparently regarded as the best means of "shortening" the Ethiopian War. Hence those commodities were selected for prohibition of exports which would handicap Italy and force her the sooner to sue for peace. But this is the very antithesis of neutrality. To promote unneutrality under the guise of neutrality is dangerous and conducive to war. Such a power should never be placed in the hands of any President, however divinely inspired.

Section 4 further provides that the prohibition may be imposed on exports "to any neutral country for transshipment to or for the use of any such belligerent country." This is a serious abnegation of rights under international law and a moral support for the violations of international law by the Allied Powers during the late war. The doctrine of continuous voyage or transport has never legally been applied to goods conditionally contraband, and it would be wrong for the United States now to repudiate its history and international law by acknowledging such a belligerent right. But the renunciation now extends not only to goods conditionally contraband, but to any goods (except foodstuffs and medical supplies) that the President may in his absolute discretion, place upon the embargo list. It is doubtful whether any other country in the world will follow such a precedent, and we shall again be out at the end of a limb as we were in 1932 with respect to Japan and in October and November 1935, with respect to League sanctions. This whole section 4 may very skillfully be employed as a means of applying sanctions to an aggressor in aid of a war policy of the League of Nations or its controlling powers.

Again we find in the section the words "for transshipment to or for the use of any such belligerent country." Such an ambiguous and unprecedented phrase as "for the use of" any such belligerent country, in a neutral country, should be struck from the bill.

Section 4 further provides that the prohibition shall be of goods "in excess of a normal amount, in quantity and kind." Possibly this also includes shipments which may not go directly to the "respective belligerent countries", but to neutral countries, a conclusion which would require a complicated quota to neutral countries as well as belligerent countries. Such a provision is well calculated to cause further controversies with foreign countries and further stifle international trade. We will thereby further impair our cotton and other trade in time of peace as well as war. We are not the only suppliers of cotton, oil, metals, and manufactured goods. We will thus immediately encourage the expansion of the trade of foreign countries and stifle our own markets. Probably not a single foreign country will follow our reckless example. We may find reprisals exerted against us, when we are at peace and at war.

International law authorizes no such limitation of exports other than arms, ammunition, and implements of war. Neither neutrals nor belligerents will gracefully accept such a limitation, even if it were honestly and impartially applied, and could claim damages from the United States under their commercial treaties.

The internal picture is equally ominous. What shippers shall be allowed to ship the "normal amount"? How is that to be divided up among the numerous exporters of commodities? Suppose one exporter has gotten the year's supply on his order book. Will that exclude all other exporters? Or shall

the Government compel him to divide the order? Will this not give rise to an extraordinary amount of litigation in the United States, and also to trouble for the Government? Will this not turn the people of the United States against their own Government, and instead of stopping war abroad produce something like civil war at home? The policy of forcing democracy on other countries has not been particularly helpful to the democracy of the United States.

This new policy of prohibiting exports, which may be used as a punitive measure quite as much as a renunciatory measure, has in it the possibilities of conflict abroad and conflict at home. It rests upon nothing more than a visionary theory. It will be time enough to adopt so dangerous if not indeed lawless a policy when a particular contingency arises making it indispensably necessary, and of the existence of such a condition Congress should be the sole and exclusive judge. The limitation of exports to pre-war amounts has been discussed in the academic literature, but only in return for concessions by belligerents of their self-arrogated claim to control neutral commerce. We should now be giving up much of our neutral commerce without any consideration whatever from belligerents. The total effect is merely to add to the uncontrolled surveillance and physical power that may be exerted on the high seas by the belligerent fortunate enough to possess a navy. These policies are not conducive to peace, as they may seem to be, but enlarge the area and uncontrollability of belligerent action. They therefore place a premium on naval force and deprive all neutrals by inference of those controls over belligerent recklessness and lawlessness which heretofore have kept war somewhat within legal limits. It is an unintentional betrayal of the rights of all weak powers and of neutrals generally.

It cannot be emphasized too often that we did not enter the last war because of our trade, even in munitions or even in loans. We entered the war because the Executive did not at critical times wish to remain neutral, and in the brief periods when he did, did not know how to maintain American neutrality. Against incompetence in public office there is no protection, either by statute or any other way. If this Neutrality Act is supposed to insure protection against Executive incompetence, it may prove to be disappointing. The whole of section 4 should be eliminated from the bill.

Section 5. Financial transactions with belligerent governments: This is probably designed to supersede in part the Johnson Act, which does not cover Japan, conceived now to be a prospective belligerent.

Section 6. Equal application of embargoes: The last clause "unless the Congress, with the approval of the President, shall declare otherwise", should be struck from the bill, because it is unnecessary and redundant. The unequal application of an embargo is admittedly an act of war, and it is, therefore, proper that only Congress should determine upon such an act. But why mention this in a "neutrality act"? Its inclusion adds to the impression that much of this act contemplates the possibility of neutrality developing into war, and the dangers heretofore mentioned readily open up such a possibility.

Section 7. Strike out "for the use of." Also strike out "named therein", for the prohibition, if any, should apply to any and all belligerent countries and not merely to those "named" in the Presidential proclamation.

Subsection (b) should go out altogether. This would prohibit American vessels from carrying any commodities—without limitation as to amount or destination—the President in his unlimited discretion decides to place on the embargo list, and would, if applied, seriously cripple American shipping. This is unprecedented. No country ever profited by taking its trade off the sea. It invites imposition and disrespect, and is not necessarily a means to peace for the United States. If a contingency arises requiring such a drastic crippling of American shipping, it should be determined in the particular case by deliberation and decision of Congress. No need has been shown for any such withdrawal of American shipping from the sea. It is again a visionary policy, calculated to promote foreign belligerent but not neutral interests. It would give rise to all the domestic disadvantages of an embargo mentioned above. The President would seem by this section to obtain practically complete control over all American shipping during any foreign war. Neutrality thus becomes more restrictive of individual freedom than does war, and by making neutrality unpopular, as does much of this bill, it may make our people more ready to accept the sacrifices of war. In certain circles, this will not be an unwelcome result. The phrase "for the use of" should go out of the bill.

Section 8. Penalties for violation of sections 2, 3, or 6: This probably means sections 3, 4, or 7. In section 8 (b) it is noted that the war material confiscated shall be "delivered to the Secretary of War." This seems not inappropriate, for if the act is applied it might readily make war an early eventuality.

Section 9. Transactions with belligerents: This section makes transactions with belligerents subject to trader's risk whenever the President so determines, but not otherwise. This is a direct temptation to unneutrality, as was demonstrated in October and November 1935, with respect to the Ethiopian War. No such power should be granted, and the President should not want it. There is no need for any such section, except in execution of a desire to handicap certain belligerents. But that invites war, and is a power Congress should never surrender to anyone. The fact is that under international law the carriage of contraband has always been at trader's risk. So has attempted violation of a lawful blockade. The carriage of goods, conditionally contraband depends on proof by the capturing belligerent of direct hostile military destination. Now the United States would seem to be repudiating international law and its own historical position by relieving the belligerent of this proof and, if the President so decides, of penalizing by implication every transaction of any kind with belligerents in a particular war. In the case of the Italian episode, this power was sought to be used to handicap Italy; it would in all probability be so used again by some future President, and therefore places in the Presidential hands, a war-making instrument for which there is neither necessity nor reason.

Section 10. Travel by American nationals on belligerent vessels: All of section 10 (a) after the word "risk" (p. 10, line 2) should be struck out. It is elementary law that American citizens who travel on belligerent vessels assume the risks of their location. This rule seems to have been unknown to the administration in 1915 and 1916, otherwise the *Lusitania* and *Sussex* ultimata would hardly have been drafted or sent. To that extent the section is declaratory of existing law. But when an exception is engrafted upon it "unless in accordance with such rules and regulations as the President shall prescribe", the way is opened to all kinds of Presidential discretion. There seems to be no good reason therefor.

The last sentence, "No passport issued by the Secretary of State * * * shall be valid for use by any person for travel from the United States on any such vessel", would seem to be not merely an injunction against travel at the passenger's "risk" but an absolute prohibition of such travel, anywhere at any time during the war. This seems unnecessarily drastic, for it is not limited to the theater of war and probably will violate treaties of commerce and navigation. It seems to accomplish a temporary withdrawal of a passport; if so used in the current Ethiopian War, it might be a special penalty for travel in Italian ships anywhere, and thus comes close to a sanction on Italy. It could easily be so employed.

Section 11 (a). Use of American ports as base of supply: This will be a handicap to belligerents that do not have large navies or naval bases, but will be no handicap to nations that have a large navy and possess numerous naval bases. But it does not violate international law.

Section 12 (a). Submarines: Belligerent submarines may be barred at Presidential discretion. Why not make this a policy of Congress and deny Presidential discretion in the matter? It is interesting to observe that no mention is made of the prohibition of the admission to American ports of belligerent armed merchant vessels or their treatment as vessels of war, a measure which Holland adopted in the late war and which the United States Neutrality Board proposed in January 1916, but hastily withdrew in March 1916 after Presidential reproof. Such a measure would be designed to promote the neutrality of the United States by preventing the use of American ports to fit out vessels used for military purposes. The act should be amended so as to place belligerent armed merchant vessels in the same status as belligerent warships.

Section 13. National Munitions Control Board: This regimentation of the munitions trade would hardly appear to serve much of a practical purpose except further to place foreign trade under Executive control and by the power of license to enable discriminations to be exerted both as to individual traders and as to individual countries. While some Executive discretion in this direction has occasionally been granted in extraterritorial and in Latin-American countries, it was always a dangerous power. Now it is extended to the entire world. The prohibition of the export of arms, ammuni-

tion, and implements of war is possible without so bureaucratic an administrative regulation of the trade and the traders. No foreign country would seem to have gone so far.

Subsections (k) and (l) represent the kind of sanction or penalty which is not conducive to helpful relations between Government and industry. It is now fashionable to boycott, but not socially desirable.

Section 16 (a). Modification or termination of treaties: Section 4 would violate nearly every commercial treaty the United States has ever made. This act would therefore require drastic rewriting of all commercial treaties, and as foreign countries may not appreciate the high moral value of thus restricting their trade with the United States or, what is more important, may exert reprisals on the United States for so drastic and unwarranted an impairment of commercial relations, a vista of international ill-will, recriminations, and conflict is opened up. This section gives the President the power, should foreign countries not concede the desirability of thus impairing their commercial treaties with the United States, to give notice of such termination at his own discretion. This is an unwise delegation of power to the President, and may dangerously confuse and impair our political relations with foreign countries. It seems hardly worth while to enter on such a reckless policy in order to carry into effect a totally untried experiment, not undertaken by any foreign country at any time.

Section 16 (b). There seems no necessity for adding at the end of this paragraph the phrase "international law as it existed prior to August 1, 1914." This might raise the inference that the legal positions assumed between August 1, 1914, and April 6, 1917, are repudiated. This could hardly have been intended, but to avoid any such inference it is best to omit the final words "as it existed prior to August 1, 1914", so as to stop with the phrase "reaffirms its rights under international law."

In sum total, the act is more likely to bring us into war than to keep us out. It affords so much opportunity for Presidential unneutrality, that it were better to leave the entire subject alone and let international law control us. An Executive who desires in his heart to remain neutral, and who has the legal knowledge to maintain American neutrality has adequate help from the existing rules of international law. They kept Great Britain legally neutral in the Civil War, in the Franco-Prussian War, in the Spanish-American War and in the Russo-Japanese War; they kept the United States neutral in the Boer War, the Crimean War, the Franco-Prussian War, the Russo-Japanese, the Chaco, the Turkish-Greek and many other wars of the nineteenth and twentieth centuries. There is therefore no need whatever to revolutionize in this somewhat casual way the established rules of international law which, if applied by informed and neutral administrations, is quite adequate to preserve the neutrality of the United States.

STATEMENT OF PROF. CHARLES CHENEY HYDE, PROFESSOR OF INTERNATIONAL LAW, COLUMBIA UNIVERSITY, NEW YORK, N. Y.

The CHAIRMAN. Will you merely point out, as shortly as you can, your suggestions as to the various sections of this bill, and we will attempt to follow you as far as we can without asking you any questions.

Professor HYDE. Mr. Chairman and members of the committee, I do not want to appear as a wholly unprejudiced speaker. I feel that I should warn you against my views because I may be deemed guilty of certain prejudices, not that they may seem prejudicial to a fair discussion of the bill.

In the first place, about 20 years ago I received a small decoration from the Italian Government; also, some members of my family own shares in concerns that might be affected by the operation of this bill.

I have a prejudice in another way. I have such a warm regard for the opinion of the officers of the State Department that are here

today, and who have participated in the preparation of this act, that it seems almost impertinent to take issue with their conclusions without very great thought.

A word about the laws of neutrality as they are today: We are really in a rather grimly jocose situation as far as law is concerned. As I understand it, international law permits a state to call itself neutral and allow most of its resources to be utilized by the belligerents. I do not know it to be true, but I suppose it to be true, that in making the conventions that came from The Hague Conference in 1907, such as that concerning the rights and duties of neutral powers in naval war, the interested states made it convenient for themselves to bring about a situation such that when war ensued countries like our own would be convenient sources of needed supplies.

So we have a law, as it stands, that is full of inconsistencies, that has not done much to prevent wars, but that does permit a State, such as our own, when a neutral, to be free from any legal duty so far as international law is concerned, to prevent trade in valuable things within its control sought by belligerent States that can get hold of them.

Now, our people have too great a sense of humor not to see through such a situation. They are very sympathetic with the idea of not participating in wars and, therefore, it seems to me, a most notable beginning has been made in our history, first, by the act of last August, and, secondly, by the general features of this act, with which I am heartily in agreement.

It seems to me that this is a commendable effort in the right direction, as a reasonable means of avoiding war with countries with which we are at peace and is highly desirable. Therefore, there is merely a question of method and scope, in carrying out the underlying plan.

With your permission, I would like to say, as briefly as possible, a few words about this measure. One thing has been in my mind constantly for the last few months. There has been a great deal of confusion of thought about two important yet unrelated matters; first, measures designed primarily to keep us out of war, or being involved in war, and, secondly, measures which are designed to help bring about peace when a war already exists. The two are not identical. Some believe that the best way to terminate existing war, if you are not a party to it, is to take hold, intervene, and participate.

I am simply asking you to consider that distinction, that this act is not directly designed to end war, yet speaking parenthetically, I believe that an act of this kind if enacted into statute, may be a tremendous incentive to other countries to pass similar enactments, and may be the forerunner of similar laws in other countries, which together would be a tremendous deterrent of war. I feel that very strongly, but that is merely parenthetical.

I offer but very few suggestions on this act for what they are worth. I very much like the third section of this act, which is mandatory; it declares, that under a certain contingency—upon the outbreak of war—the President makes a declaration of fact and certain things happen. It is quite logical and quite reasonable. I am full of sympathy with the attitude of the draftsmen of this act in that

regard, and I would like to carry out that same principle with respect to articles contributing to the manufacture of implements of war. The proposed measure is consistent in preventing loans through section 5 (a) to belligerent countries to enable them indirectly to have the great assistance of American financial resources.

Now, I assume you approach this very delicate task with a full understanding of its implications.

Will you not consider the wisdom of making any exportations you think should be prohibited, which are involved in sections 4 and 5, dependent upon the will of Congress as set forth in the act and mandatory upon the President, and not subject to change during the existence of a war?

Mr. TINKHAM. To clarify that, you believe that section 4 is a proper enactment, but that it should be made mandatory?

Professor HYDE. I am afraid of the proviso; yes.

The CHAIRMAN. In what respect do you mean mandatory?

Professor HYDE. I will try to explain that in this way: The third section of the act provides that under certain conditions certain things shall be prohibited. Perhaps "mandatory" is not as good a word as "automatic."

My reason for that is this: Any embargo act, putting restraints on exportation of any articles—cattle, and so forth—is bound, of course, to affect existing belligerents differently. We all realize that. Changes that occur in the course of a war, after it has started out, are likely to be credited not to the idea of national abstinence from participation, but charged to a desire to help one side or the other.

It would be extremely difficult to convince Europe that any shift or enlargements, during the present war of American embargoes, was for the purpose of emphasizing American abstention; and I have no doubt that it would be charged that such action was for the purpose of favoring one or the other of the belligerents.

I think a good feature of the present act is that it is not designed to give encouragement to any suggestion, true or untrue, that we are doing anything to penalize or favor any belligerent, but that it is designed simply to keep us out of the struggle.

I hope you will consider the wisdom of the pros and cons of those delicate provisions in sections 4 and 5 that touch this matter. They should be applicable on the happening of an event, and they should not be changeable during the course of the war, because those changes are fraught with great difficulty in explaining our position. They place a heavy burden upon the President and those conducting the foreign relations of the United States, like the Secretary of State, to convince others that our motives are clean and pure.

The CHAIRMAN. Have you any objection to section 4 putting the embargo on over and above the normal trade?

Professor HYDE. I do not object to that.

The CHAIRMAN. Do you entertain the same view on that that Professor Borchard does?

Professor HYDE. I do not think I quite agree with him.

The CHAIRMAN. Would you modify that with respect to transshipments in connection with neutral nations?

Professor HYDE. I doubt if I should.

Mr. CHRISTIANSON. Judging from some of the remarks you have made, it is your opinion that any enlargement or extension of the

neutrality policies of this country, beyond those laid down in the act of 1935, should not be made applicable to any of the belligerents in the war now existing?

Professor HYDE. I am not prepared to say quite that much, but I feel that if those dangers of war could be postponed, and made applicable to the next conflict, it would be desirable.

Mr. CHRISTIANSON. Let me ask another question, if I may. Do you believe that the application of any of these rules to countries in South and Central America would constitute, in part, an abandonment of the Monroe Doctrine?

Professor HYDE. Well, I had not thought of it before, but I should hardly think so.

Mr. CHRISTIANSON. If some European country, in violation of the Monroe Doctrine, should prepare to make an attack on a South American country, it might be of advantage to furnish that South American country with means to defend itself. Obviously, if this legislation is enacted, it would be impossible to do so.

Professor HYDE. I do not know as I can answer your question, but it seems to me if the United States should come to the rescue of a South American country, under the Monroe Doctrine, which I think it should, and I hope it would, Congress might declare a state of war to exist between this country and the country preparing to invade or attack the South American country.

Mr. CHRISTIANSON. Do you not think we should treat South American countries differently?

Professor HYDE. I do not think so.

Mr. CHRISTIANSON. Is it not possible to help a South American country by means short of going to war?

Professor HYDE. It is possible to help a South American country by means short of war, unless that South American country is itself a belligerent. If it is, and if its enemy is a European State, the United States is likely to enter the war and to cease to be a neutral. The philosophy of this act is that in any war, so long as we remain a neutral, there is not to be a benevolent relaxation of neutral obligations, but rather a scrupulous effort to abstain from any participation in the conflict.

Mr. GRAY. Are you in favor of not changing an embargo during the continuance of a war either by the President or by Congress?

Professor HYDE. That is a difficult thing to do. I am glad I have not the responsibility of being on this committee.

Mr. JOHNSON. I would like to have Mr. Tinkham ask the witness a question. I would like to express to the witness my admiration for his broad-gage candor, and in view of that compliment, I would like to ask him a question. He has made certain suggestions as to the third and fourth sections. I would like to ask him if he has written out the phraseology of those changes that should take place.

Professor HYDE. I have not done so, but I will be glad to do so.

The CHAIRMAN. Send it to the chairman.

Mr. MOORE. I would like to call the committee's attention to the fact that this gentleman who is described as not dogmatic was brought up in the State Department.

Mr. LAMBETH. After listening to your very delightful, concise, and "neutral" statement, I would like to ask you this question: Do

I understand that you favor the so-called Nye bill in preference to the bill introduced by the chairman of this committee, because it is in all respects more mandatory, more rigid, and more inflexible, and eliminates practically all discretionary authority on the part of the Executive?

Professor HYDE. I must confess I have not read the Nye bill.

Mr. TINKHAM. Are you for giving the least possible discretionary power to the Chief Executive or for giving him the broadest power of discretion?

Professor HYDE. Will you repeat that?

Mr. TINKHAM. Are you, as a matter of policy, in favor of the Chief Executive having broad optional power or are you in favor of legislation which is, in a general way, mandatory?

Professor HYDE. I have given that a lot of thought and I feel that the latter is preferable.

Mr. TINKHAM. That is, that it should be mandatory?

Professor HYDE. Yes, sir; because otherwise it puts too heavy a burden on the President. It makes it necessary for him to make a decision, and that is the hardest thing a man can do—to make those changes. I think that is such a serious burden that that should be left to Congress. Yet, after you have once decided what articles should not go out, that should stick.

Mr. LAMBETH. You would favor limiting the Executive authority to an irreducible minimum?

Professor HYDE. I think so.

Mr. TINKHAM. I wish to say to the committee that Professor Hyde is the head of the International Law Department of Columbia University, and was in the State Department for 2 years as adviser.

Mr. FISH. What is the title of your professorship there?

Professor HYDE. I hold a professorship that takes in vain the name of one member of this committee. I am the holder of the Hamilton Fish professorship.

Mr. FISH. Have you written anything that deals with placing economic embargoes on countries with which we have treaties that say we shall have no economic embargoes?

Professor HYDE. No, sir; I have not spoken on that point and I have not given attention enough to the treaties involved to express an opinion. But I have had a finger in the pie, so to speak, in the drafting of the first new commercial treaties drawn after the war, that with Germany, of December 1923, and I do not remember that we considered any of those points. I greatly doubt whether we violate any treaty in doing this, and I will never believe the United States has violated any treaty, until the courts have said so.

Mr. MOORE. Why not ask him another question—whether he is in favor of your candidate for President?

Mr. FISH. Mr. Moore has said that he was a disciple of George Washington, and I want to ask Mr. Moore if he is not for the League of Nations?

Mr. MOORE. No, I am not; not for membership in it.

The CHAIRMAN. The committee will now adjourn and we will resume the hearings at 10 o'clock tomorrow morning.

(Whereupon, at 12 o'clock noon, the hearing was adjourned until tomorrow, Friday, January 10, 1936, at 10 o'clock a. m.)

(The memorandum and changes in H. J. Res. 422, as proposed by Professor Hyde, are as follows:)

COLUMBIA UNIVERSITY,
January 13, 1936.

Hon. SAMUEL D. McREYNOLDS,
*Chairman, Committee on Foreign Affairs,
House of Representatives, Washington.*

MY DEAR JUDGE McREYNOLDS: In pursuance of your request, I have pleasure in sending you herewith a brief memorandum concerning proposed changes in House Joint Resolution 422, together with texts of a few amendatory proposals which will explain themselves.

On my return here last week, I found that the newsprint of House Joint Resolution 422, on which I based my remarks before your committee, had wrongly numbered the various sections, a circumstance which may have made some of my remarks seem inexplicable.

Perhaps you would be so kind as to pass on copies of the enclosure to Representatives Rogers and Tinkham, to whom I promised copies when in Washington.

I was so courteously dealt with by yourself and your colleagues last Thursday that I would assure you of my appreciation.

Sincerely yours,

CHARLES CHENEY HYDE.

MEMORANDUM CONCERNING A FEW CHANGES PROPOSED FOR H. J. RES. 422

The writer has fullest sympathy with the effort of the Congress to enable the United States to abstain in every way from participating in foreign wars when it professes to be a neutral, and to that end to prevent American resources from aiding a belligerent in its fight against a country with which the United States is at peace. This is such a lofty endeavor and so fully in harmony with the thought of our people that the appropriate legislation should not contain intimations that it is designed to further efforts to terminate wars, or to assist or encourage the United States to take sides in wars to which it is not a party.

Accordingly, it is suggested that in the proposed act restrictions of every kind upon the use of American resources for belligerent purposes should be made automatic in their operation, applicable, whenever possible, upon the outbreak of war, and remain unchanged throughout the duration of the conflict, so long as the United States remains a neutral. Solid practical reasons seem to justify this conclusion. Affirmative changes by a neutral state in its embargo policies either after the outbreak or during the continuance of a war, are likely to affect the opposing belligerents unequally; and the chief belligerent sufferer is bound to complain that the neutral action is a direct attempt to penalize it and so weaken its chances of success.

This is true despite clean motives on the part of the neutral, and notwithstanding the fact that it may take such steps without necessarily violating a legal duty toward either contestant. The grave consequences that may result from arousing the conviction of a friendly though belligerent state that affirmative neutral action taken after the beginning of a war has robbed it of the fruits of victory, may cause a country such as our own to hesitate long before it goes the whole way, and by affirmative legislative action makes a radical change in its trade relationships with a particular belligerent which its law existing prior to the outbreak of the conflict did not contemplate. Such considerations demand, therefore, careful consideration by the Congress of the question whether the operation of sections 4 and 5 of H. J. Res. 422 should not await the termination of the present war between Ethiopia and Italy, and so be confined in their operations to future conflicts when and as they afflict the world after the enactment of the proposed law.

The appended suggestions by way of amendment to sections 4, 5, and 6 have been drafted with some deference for the foregoing considerations, and with a sole view to simplifying American abstention from participation—and even seeming participation—in wars between other countries.

As a means of establishing and maintaining an appropriate list of articles to be subjected to embargo as contemplated in section 4, it is proposed that the National Munitions Control Board be empowered to designate a list of articles to be enumerated and defined as contraband of war which (in addition to those embraced in section 2 and subject to the limitations of food-stuffs and medical supplies) should automatically and unchangingly operate throughout the course of a war in which the United States is a neutral. An offended belligerent always has the right to attempt to prevent contraband articles from neutral sources from reaching its enemy. Thus the United States, in attempting to prevent what it deems to be contraband, under circumstances when it feels that particular articles are fairly to be so regarded, from being traded in and exported for belligerent purposes, would be taking a logical stand, and one in harmony with what would be its position if it were itself a belligerent.

It seems obvious that the restrictions imposed by sections 3, 4, and 5 (rather than 2, 3, and 4 as they are numbered on page 6 of H. J. Res. 422) should be made to apply equally to all belligerents.

In relation to the treaty problem suggested in section 16 (a), concerning the precise question whether any provisions of H. J. Res. 422 are at variance with any contractual obligations of the United States, the writer is not as yet prepared to express an opinion.

JANUARY 13, 1936.

AMENDMENTS PROPOSED FOR H. J. RES. 422 (74TH CONG., 2D SESS.)

EXPORT OF ARTICLES AND MATERIALS USED FOR WAR PURPOSES

Section 4 (a) to read:

"Wherever the President shall have issued his proclamation as provided in section 2 of this act, it shall thereafter throughout the period of the war, and so long as the United States remains a neutral, be unlawful to export, or attempt to export, or cause to be exported, or sell for export, from any place in the United States to any belligerent country named in the proclamation, or to any neutral country for transshipment to or for the use of any such belligerent country in excess of a normal amount, in quantity and kind, of exports from the United States to the respective belligerent countries prior to the date of the proclamation, such normal amounts to constitute the average of shipments during a previous period of years to be determined by the President, any articles other than or in addition to those specified in section 3 (a) of this act, which are defined and enumerated as contraband of war by the National Munitions Control Board referred to in section 13 of this act, *Provided:* That no restriction or prohibition imposed under this section shall under any circumstances be applied to food or medical supplies."

Section 4 (b) to read:

"The President is hereby authorized to proclaim, upon recommendation of the National Munitions Control Board, a list of articles which under the conditions therein set forth shall be considered contraband of war for the purposes of this section, which list shall remain unchanged throughout the progress of the war upon the outbreak of which, or immediately prior to the outbreak of which, it shall have been proclaimed."

Section 4 (c) to read:

"The President shall, from time to time, extend such restrictions as are imposed under this section to other countries as and when they become involved in such war to which the United States remains a neutral."

FINANCIAL TRANSACTIONS WITH BELLIGERENT GOVERNMENTS

Section 5 (a) to read:

"Whenever the President shall have issued a proclamation as provided for in section 2 of this act, it shall thereafter throughout the period of the war and so long as the United States remains a neutral be unlawful for any person within

the United States to purchase or sell bonds, securities, or other obligations of the government of any belligerent country or of any political subdivision thereof, or of any person acting for or on behalf of such government, issued after the date of such proclamation, or to make any loans or extend any credit to such government or person."

Section 5 (b) to read:

"The provisions of this section shall not apply to a renewal or adjustment of indebtedness existing on the date of the President's proclamation."

EQUAL APPLICATION OF EMBARGOES, AND SO FORTH

Section 6 to read:

"Any embargo, prohibition, or restriction that may be imposed by or under the provisions of sections 3, 4, and 5 of this act shall apply equally to all belligerents."

AMERICAN NEUTRALITY POLICY

FRIDAY, JANUARY 10, 1936

HOUSE OF REPRESENTATIVES,
COMMITTEE ON FOREIGN AFFAIRS,
Washington, D. C.

The committee met at 10 a. m. in the hearing room in the Capitol, Hon. Sam D. McReynolds (chairman) presiding.

The CHAIRMAN. The committee will come to order. We will continue consideration of H. J. Res. 422. Mr. Celler, have you a statement to make?

STATEMENT OF HON. EMANUEL CELLER, REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. CELLER. Mr. Chairman and gentlemen of the committee, I have examined carefully H. J. Res. 422 introduced by the gentleman from Tennessee, Mr. McReynolds, and S. 348, introduced by Senators Clark and Nye, and I am forced to confess that I am disposed to favor the Nye-Clark bill as against the McReynolds bill.

The Senate bill goes much further than the House bill in laying down a definite mandatory instead of discretionary policy during times of foreign wars and possible foreign entanglements.

As little power as possible in this matter should be left to Presidential discretion. I have the greatest admiration and respect for President Roosevelt, and my predilection for the Nye-Clark bill cannot in any wise be deemed a reflection on him. But recent investigations clearly show that even President Wilson was swerved prior to the World War from a position of strict neutrality. Witness his position on the matter of making loans to allies at the time of the World War. Those loans and their implications and ramifications played a conspicuous part in drawing us into the war. Therefore, all possible power should be left to Congress.

I desire to point out a few of the differences between the two bills.

1. In the Nye-Clark bill the "war materials" embargo is to be applied automatically at the outbreak of the war. There is no necessity of waiting until the actual declaration of war. The House bill applies such embargoes merely during the progress of the war. Much can happen before the formal declaration of war.

2. The Nye-Clark bill provides for punishment generally by way of a fine of \$100,000 and 10 years' imprisonment, instead of \$10,000 fine and imprisonment of 5 years, as is provided for in the McReynolds bill. The problem of maintaining neutrality is so serious that the heavier fine provision should be adopted.

3. In the McReynolds bill the formula as to the amount of war materials that may be set up as a quota is a matter left primarily to the discretion of the President. While it is true the bill provides a limitation as to what the President deems to be the "normal amount" of goods, that limitation is nevertheless more imaginary than real. I prefer the definite quota as set forth in the Nye-Clark bill, which provides for an amount not exceeding the "average annual exports during the 5-year period preceding the outbreak of the war." These figures can always be definitely ascertained and permit of little or no discretion.

In this connection, I believe both bills also provide that the President can importune Congress to provide further restrictions on war materials if our neutrality is endangered. In other words, there is laid down a definite policy for a complete embargo that would be invoked when necessary. In this case only Congress can create such cessation of business.

Here it might be well to consider the ruin that would be caused in such emergency. A complete embargo would well nigh destroy the cotton and food industry. Perhaps some means of compensation should be devised to reimburse the processors, the farmers and the food growers thus injured. It is well, however, not to tie up such legislation to the present session of Congress. Some later Congress should consider it.

A fair presumption, upon a study of both bills, is that no mention is made of the possible violation of the Monroe Doctrine by a foreign power. I do not believe we could remain neutral in such an event. In the event of a possible attack by Germany against Brazil or Cuba the neutrality contained in both bills would have to be considerably changed. That would have to be left for some extraordinary session of Congress invoked by the President.

Very properly, the Nye-Clark bill provides that goods when shipped to a foreign government shall be solely at the risk of the foreign government or national involved, instead of merely leaving such shipments to the President's discretion (McReynolds bill), at the risk of our own citizens. This is embodied in the B. M. Baruch "cash-and-carry" idea, leaving all shipments at the risk of whoever buys the goods.

I am firmly convinced that we should stay out of war. We should not accept the responsibility to ship goods to belligerents or even to neutrals. If anyone wants our goods, let him come and get them at our own ports. Undoubtedly the desire to increase our commerce by shipping goods abroad, the sinking of vessels containing those goods, the attempts to force a British blockade, and the attempts to avoid German submarines, brought us into the war.

Business will suffer by such a policy. But that is unfortunate. Better that business suffer than that millions of men be drawn to the colors with the consequent loss of thousands and thousands of lives.

Thank you very much, Mr. Chairman.

The CHAIRMAN. We are very glad to have your statement, Mr. Celler.

Mr. Maverick; if you are ready, we will hear you.

STATEMENT OF HON. MAURY MAVERICK, REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS

Mr. MAVERICK. Mr. Chairman, the first thing I want to say is that I was deeply grieved yesterday to find that the Republicans were using a professor. That is a monopoly that the Democrats enjoy, and I hate to see Republicans using a "brain-truster." I am shocked and grieved.

Mr. MARTIN. Once in a while one sees the light.

Mr. MAVERICK. I haven't any prejudice at all against professors or multimillionaires, but I notice that Mr. Morgan indicated that some of his actions were taken to protect the "rights" of the American people. Yes; he comes right out and admits his patriotism in wanting to go to war from the start. That seems to go in the Morgan family. In a Civil War they had some relations with the American Government—the selling of guns. I have not been able to find, however, any record of any heroic deeds on the field of battle. In fact, I can find no record of enlistments. Undoubtedly, they have decorated themselves with gold medals on the field of finance.

The other gentleman, the professor, spoke about protecting weak countries, and gave a really learned dissertation on international law.

Without any demagoguery, and not meaning to be personal, it is generally someone who does not have to fight in a war that talks about freedom of the seas, international law, "rights", national honor, the flag, and such things as "insults."

POLITICAL ISOLATION AND ECONOMIC ENTANGLEMENT LEADS TO WAR

In discussing the question of neutrality, I hope that we can do it dispassionately. For instance, I hope that you will not understand by my references to Mr. Morgan that I think that he "caused" the war or got us into it. There is no sense in blaming Mr. Morgan for everything and laying it on to him, because if we do we excuse ourselves. He is only human. Our purpose should be to get all the facts—and getting the facts, for instance, in the Nye inquiry—to make an effort not to repeat the errors that led us into the World War. We know the firm of J. P. Morgan represented the Allies as purchasing agents; we know that they began financing the Allies from the beginning; but we also know that the American people were not neutral from the beginning. At first we had political and military isolation, but by virtue of economic and financial entanglement, we finally became "entangled" in a military and economic way. Hence, it would seem to me that observing these facts, that if we expect to keep political and military isolation in a conflict, that we must undergo some of the sacrifices of economic isolation.

Now another witness, a professor, spoke in rather pious terms of the "pressure of public opinion", somewhat as though the public is all wrong and a sort of an ignorant mob who don't know what they want. I believe, of course, that Congressmen should in the final analysis follow the dictates of their own conscience, and vote according to facts, but I find that public opinion is extraordinarily well-informed on the subject of war. I have been over some twenty-odd States, and it looks like to me that the American people better understand that subject than any other.

RESULTS OF POLL SHOW PEOPLE AGAINST WAR

The Council for Social Action of the Congregational and Christian Churches of America held a poll in some 2,500 churches, with more than 200,000 individuals voting. Various questions were asked and the following is an analysis:

Membership in the League of Nations—yes, 70,411; no, 89,661.

Consultation with other nations in support of the Kellogg pact and other peace agreements—yes, 184,221; no, 18,851.

National isolation through strict neutrality legislation—yes, 83,682; no, 54,786.

More equal distribution of world resources and markets—yes, 121,581; no, 22,956.

A larger army, navy and air force—yes, 64,432; no, 85,585.

Abolition of compulsory military training—yes, 99,350; no, 54,884.

Government control of the munitions industry—yes, 144,030; no, 16,847.

This furnishes illuminating information on public opinion. Some of the questions are answered in a slightly contradictory manner, but it will be seen that the majority oppose entrance at this time into the League of Nations, and they strongly favor "National isolation through strict neutrality legislation."

Concerning ordinary comment, I ask permission to include for printing a story from the New York Herald-Tribune of January 12, 1936, by Leland Stowe. It says in part:

AMERICA LOOKS FOR PEACE: NEUTRALITY OR ISOLATION?—AGREED ON A MAIN GOAL, LEGISLATORS AND WHITE HOUSE MUST DECIDE IN PERMANENT ACT WHETHER UNITED STATES WILL REMAIN ALOOF IN A CONFLICT OR BEND NEUTRALITY TO FIT CERTAIN CASES

[By Leland Stowe]

After 140 years the traditional American conception of neutral rights and freedom to trade with whom we please, when we please, and where we please has been discarded. It has been voluntarily renounced because a great majority of our population and our legislative bodies has become convinced that the old neutrality did not provide what Webster says neutrality should provide: namely, that "condition of a state or government which refrains from taking part, directly or indirectly, in a war between other powers." As a result, the American Government and American people have set out to blaze a new and challenging trail toward peace.

GOAL IS AGREED ON

There can be no doubt whatever about unanimity of approval of the goal which has been set. As to the most practical, most effective, and safest means toward that goal there exists ample room for honest differences of opinion. Even the most expert minds disagree upon various points in the program. But in its main lines the program is now complete and it is embodied in two neutrality bills—one sponsored by the administration and the second offered by Senators Nye and Clarke and Congressman Maverick—which will eventually be merged to constitute an imposing new stone in the arch of American foreign policy.

PERMANENT SET-UP PROVIDED

In essence, what do these projects propose to do? The administration project makes the following steps, intended as additional "peace insurance", mandatory:

1. A rigid embargo on the export of arms, ammunition, or implements of war to all belligerents.
2. Prohibition of loans or credits to belligerents, save for possible continuation of ordinary commercial credits.
3. All embargoes or restrictions to apply equally to all belligerents—unless Congress, with the President's approval, shall declare otherwise.
4. American vessels are prohibited from carrying munitions.
5. American citizens travel on belligerent vessels at their own risk.

6. American ports are barred as bases of supply for belligerents.

7. Belligerent submarines are denied access to American waters.

8. The functions of the Munitions Control Board, with its machinery for licensing munitions exports, etc., are maintained with certain amendments.

As for the so-called isolationists' neutrality bill, the Nye-Clark-Maverick project, it coincides with the administration bill in most essential details. At eight points it tends to strengthen the mandatory or automatic character of the provisions; that is, it leaves the Chief Executive less room for discretionary decision and to that extent according to the State Department school of thought, tends to treat all wars alike—which by origin, geography, and circumstance they can never be—and so diminishes the force of the act as a diplomatic weapon.

DEPARTURE IN POLICY

For present purposes, however, we already have the main outlines of an epochal innovation in American foreign policy. For it can be seen at once that no such legal precautionary stipulations as these, created to prevent America's involvement in war, existed in those fateful years of 1914-17 when the United States Government attempted, with such costly failure, to apply its doctrine of freedom of the seas and unrestricted trade.

Had such a law as the one now under preparation been on the statute books, we would not have extended loans and credits of more than \$2,000,000,000 to the Allied Powers before April 1917. Had such barriers been legislated in advance, our exports to Europe would not have more than doubled by 1916; nor would our war trade with the Allies have swollen from \$850,000,000 in 1914 to \$3,200,000,000 in 1916. These very figures undoubtedly explain in considerable measure the drastic quality of the legislative bills which are now tabled in Washington. These bills constitute a heroic effort to preserve America from an artificial war-time boom, and so forth.

Let me specifically call to your attention that when we discuss neutrality, that neutrality must necessarily be on a basis of the laws of the United States. We enacted no law before the World War and followed the "customs of nations"—and thereby got into the war.

Professor Borchard said, for instance, in talking about neutrality, that weak countries have a right to existence as against strong powers. I agree to that, at least in the abstract sense, but the practical possibility of the United States settling all the troubles of the world is another matter.

For neutrality means neutrality and if we concern ourselves with other nations' affairs, we are not neutral. The "weak" and "strong" do not concern the concept of neutrality at all. We are not protecting weak powers, and we are not offending strong powers. What we hope to do is to attain peace by attending to our own business.

INTERNATIONAL LAW HAS BEEN LAW OF WAR

Then he said that international law covers the whole situation, and that if the State Department is competent everything can be worked out all right. Well, of course, we don't know whether the State Department is going to be competent or not. But I do know that none of the belligerent countries paid very much attention to international law in the last war, and if we hope to keep out of the next one we had better write some new rules for our own guidance.

Then Professor Borchard referred to this act here, the McReynolds Act—which I don't think is quite strong enough—as "quixotic and visionary" and talks about the "background of international law of 300 years." Well, the purpose of enacting neutrality legislation is to break away from some of the old precedents,

which got us into war, and to set new precedents of peace in the protection of the American people. International law has been the law of war, and it has been that way not only 300 years but it has been that way for hundreds of years. What we are trying to do is to stay out of war, and so we cannot follow the international law of war in enacting the municipal laws of the country.

Let me make some comparisons of these two bills. Some of my testimony will be more or less technical, and I am going to have to read some of it. I don't generally read, but this is a hard subject. I have studied the subject for about a year, and I feel less able to talk on it this morning than I did when I first started. When I first became interested I had very extreme views and I wanted to embargo everything. I still feel that way, but, of course, we are confronted with different groups of people over the United States who sell commodities; and so there are various interests, and there are the considerations of humanity and usual world trade. So I have modified my ideas somewhat. Also I have concluded that the McReynolds bill pretty near hits the spot and is a good bill. It is a great advance over anything that has ever been presented to the Congress before.

FAIR NEUTRALITY LAW MUST BE WRITTEN

We must consider the commercial and laboring classes of this country and attempt to write a fair law so they will have no complaint about foreign trade; also the foreign countries, by virtue of certain embargoes and quotas, cannot have any complaint with this country, as far as usual and peaceful commerce is concerned.

Let me make a few general observations on the McReynolds bill, and then I am going to make a specific statement on it.

I think the penalties in the McReynolds bill are too mild. When you get into the hundreds of millions of dollars a \$10,000 fine is not very much, and I believe that they should be increased. They are greater in the Nye bill, and I think these points ought to be considered.

I think that we should make a clean break with the old concept of neutrality. I note in the back part of the McReynolds bill that it refers to that matter in this way—I think in section 16 (b) it says.

Except to the extent that the law and rules of neutrality are or may be temporarily or provisionally modified by or under authority of this Act the United States reserves and reaffirms its rights under international law as it existed prior to August 1, 1914.

The CHAIRMAN. Will you pardon a suggestion right there, Mr. Maverick?

Mr. MAVERICK. Yes, sir.

The CHAIRMAN. I think this is the idea, if you will permit a suggestion—that we wanted to enact such laws as we could to keep us out of war—neutrality laws—and whatever advantages we could get under the old neutrality laws we wanted to still hold. That was merely the purpose.

Mr. MAVERICK. Yes; I understand; but the point that I wanted to make is that the concept of neutrality under international law, and the policy we hope to establish for the United States, are two entirely different things. International law is based on the law and customs

and usages of nations and the freedom of the seas; that is what historians think about it. Neutrality, according to the new concept, or at least what I call the new concept, is an entirely different thing.

I can generally talk ad lib, but I am going to read some of this. When I talk I am going to be talking about the bill that is called in the newspapers the Nye-Clark-Maverick bill.

M'REYNOLDS RESOLUTION AND NYE-CLARK-MAVERICK BILL COMPARED

The first section of this bill—that is, the Nye bill—recognizes the absence of international agreements defining the rights and duties of States in time of war and declares that the provisions of the act are necessary to maintain peace. This section also puts this law into effect until such time as new international agreements to insure peace, justice, and equality among nations are initiated and concluded, and of course, until the neutrality shall be repealed by Congress.

In other words, it proclaims and recognizes that the old ideas of neutrality and international law are not in existence at all.

The first section of the Nye-Clark-Maverick bill is as follows:

SECTION 1. (a) The provisions of this Act are necessary to preserve and maintain peace between the United States and foreign nations, and to safeguard the interests of the United States in the absence of international agreements defining the rights and duties of states in time of war, and pending the initiation and conclusion of such new agreements as will insure peace, justice, and equality among nations.

There is a difference between treaties to preserve the territorial status quo, such as the Pact of Paris, and treaties intended to insure not only peace but some degree of equality among nations. The Treaty of Versailles divided up the world. It created a new status quo. The Pact of Paris made any violator of that status quo a moral outlaw.

The United States did not see fit to ratify the Treaty of Versailles and thereby did not endorse or underwrite the new status quo. In ratifying the Pact of Paris it expressly stated that that pact contemplated in no way the use of force or coercive measures to uphold it. It is doubtful whether the people of the United States would today consciously endorse a war which had no other object than to maintain that particular status quo which was established at Versailles. Of course, the Pact of Paris endorsed the territorial limitations of the Treaty of Versailles.

The day may come when the democratic nations of the world will take the leadership in evolving a new status quo based on mutual interest rather than on the outcome of ancient wars. Then the United States may wish in its own interest to become an active participant in preventing violations of that new world arrangement. This law will in no way hamper the United States from considering such a course in its own future interest.

Now I am going to refer to section 2 in the Nye bill.

The first important difference between this bill and the administration bill comes in section 2, the embargo of arms, ammunition, and implements of war.

The CHAIRMAN. Mr. Maverick, your bill is just the same as the Nye bill.

Mr. MAVERICK. Word for word, yes. I should say "Nye bill", because—

The CHAIRMAN. Well, say "Maverick bill."

Mr. MAVERICK. The first important difference between this bill and the McReynolds bill comes in section II, the embargo of arms, ammunition, and implements of war. In our bill this embargo must apply automatically upon the outbreak of war. The McReynolds bill, while it seems to be mandatory, actually gives the President discretion to apply the embargo at any time he chooses "during the progress of war." This applies as to the original act.

Now, as I say, I am not certain about that. But I am making these statements so that we are sure that that is going to be corrected—I mean if in your judgment you believe it should be.

TERM "OR DURING PROGRESS" IMPORTANT

This provision might nullify the entire neutrality act. It appears the President would not be required to put on an arms embargo until the last day of the war, possibly a week before the end of the war. I mean by that, according to the McReynolds bill, immediately when this bill is enacted—we will say that it is—he would not have to proclaim an arms embargo against Italy and Ethiopia; and for instance, if England got in the war, the President could wait until a week before the war was won by England. That appears to be a possibility. In fact it applies to the most important part of the war, the beginning.

The CHAIRMAN. Mr. Maverick, will you pardon a suggestion right there? I hate to disturb you, but I think I can save time. Section (b) of that same section reads as follows:

The President shall from time to time, by proclamation, extend such embargo upon the export of arms, ammunition, and implements of war to other states as and when they become engaged as belligerents.

I am sorry to interrupt you here. The same thing is in your bill that is in our bill, same section. I was reading from yours, but—

The President shall, from time to time, by proclamation, extend such embargo upon the export of arms, ammunition, and implements of war to other countries as and when they may become involved in such war.

The same section is in both bills. We must have been stealing from each other. Go ahead on your own statement.

Mr. MAVERICK. Yes, but your bill would not compel the President to take any action at all on the outbreak of war. If he did so, then of course the sentence just read would cover the situation.

President Wilson would not have been compelled by the administration resolution, had it been in force in 1914 to impose any embargo up to the time the United States entered the World War. Also, the prohibition of loans and credits and the limitation of exports of other war materials would not come into effect until the President made his proclamation under section II. If the President did not ask for an arms embargo he would not be compelled to forbid loans and credits.

WHAT ABOUT "MEDICINES AND FOODS"?

The McReynolds bill says that medicine and food shall not be prohibited, either in quotas or embargoes. Now I have said that

myself, and I do not want to "go back on myself", but one of the major causes probably of a war might also be foodstuffs in abnormal quantities. In the World War we sold wheat to the Allies, and I believe food necessities should be included just like any other, because the sale of wheat increased in the United States many times. All through North Dakota, Nebraska, and other States people began plowing up the grazing pastures to make wheat fields. And now these fields are being ruined by erosion—there is no cultivation; the money is not going to be paid by the foreign powers—and there you are.

So I believe that either it should be an automatic quota or the President should have power to include food in quotas, because that takes the cattle of Texas and the corn of Iowa and the wheat of the Western States, and the sheep and goats and all that. It seems to me that food should be included.

Mr. MARTIN. May I ask a question, Mr. Chairman?

The CHAIRMAN. Yes.

Mr. MARTIN. Suppose you include food. Suppose you had a drought or some act of God that destroyed a good many of the crops of the country. Do you want those people to starve?

Mr. MAVERICK. No; I don't think so. I believe, however, that we should have some provision in this bill that food should be included to the extent of making it for a peaceful purpose and not for the use of armies.

Mr. LAMBETH. How would you discriminate? How would you determine it?

The CHAIRMAN. You are not thoroughly sold on that proposition, are you, Mr. Maverick?

Mr. MAVERICK. I would be thoroughly sold on this proposition, if there was a war in Europe, and they wanted to buy 10 times as much wheat as they had bought before—and they were using it for purely military purposes—I would like to ban that.

Mr. LAMBETH. How could an average person eat any more wheat or bread, in time of war than he would in time of peace? The population would not be any greater. So, what is the practical point that you argue? They cannot make ammunition out of wheat. They cannot kill anybody with wheat.

Mr. MAVERICK. I will ask you, why is it that we sold 10 or 20 times as much foodstuffs during the war than before? I will ask you—I don't know.

Mr. LAMBETH. I am not the witness at the moment. I am not on the stand.

The CHAIRMAN. That is very easily answered; because all those people were not raising it over there.

Mr. EATON. Didn't some of this wheat come from Texas?

Mr. MAVERICK. Oh, we have lots of wheat in Texas. We have everything in Texas.

The CHAIRMAN. Proceed, Mr. Maverick.

Mr. MAVERICK. If the Maverick bill is not adopted by Congress this loophole in the administration bill should be corrected by striking out the words "or during the progress of the war" on line 18 of page 2 of the administration bill.

Now, I am going to compare section 3, quota on other key war materials, and that is section 4 in the McReynolds bill.

(The following are the sections of the two bills, as proposed:)

NYE-CLARK-MAVERICK, SECTION 3

**EXPORT OF ARMS, AMMUNITION, AND
IMPLEMENTS OF WAR**

[H. R. 9668]

SEC. 3. (a) Upon the outbreak or during the progress of any war between, or among, two or more foreign states, the President shall proclaim such fact, and it shall thereafter be unlawful to export, or attempt to export, or cause to be exported, or sell for export, arms, ammunition, or implements of war from any place in the United States to any belligerent country, any neutral country for transshipment, or any neutral country for transshipment to or for the use of any such belligerent country.

(b) The President shall, by proclamation, definitely enumerate the arms, ammunition, and implements of war, the export of which is prohibited by this Act.

(c) The President shall, from time to time, by proclamation, extend such embargo upon the export of arms, ammunition, and implements of war to other countries as and when they may become involved in such war.

(d) When in the judgment of the President the conditions which have caused him to issue a proclamation have ceased to exist, he shall revoke the same and the provisions of this section shall thereupon cease to apply.

MOREYNOLDS, SECTION 4

**EXPORT OF ARTICLES AND MATERIALS
USED FOR WAR PURPOSES**

[H. J. Res. 422]

SEC. 4. (a) Whenever, during any war in which the United States is neutral, the President shall find that the placing of restrictions on the shipment from the United States to belligerent countries of certain articles or materials used in the manufacture of arms, ammunition, or implements of war, or in the conduct of war, will serve to promote the security and preserve the neutrality of the United States, or to protect the lives and commerce of nationals of the United States, or that to refrain from placing such restrictions would contribute to a prolongation or expansion of the war and shall so proclaim, it shall thereafter be unlawful to export, or attempt to export, or cause to be exported, or sell for export, such articles or materials from any place in the United States to any belligerent country named in the proclamation, or to any neutral country for transshipment to or for the use of any such belligerent country in excess of a normal amount, in quantity and kind, of exports from the United States to the respective belligerent countries prior to the date of the proclamation, such normal amount to constitute the average of shipments during a previous period of years to be determined by the President: *Provided*, That no restriction or prohibition imposed under this section shall under any circumstances be applied to food or medical supplies.

(b) The President shall, by proclamation, definitely enumerate the articles or materials the exportation of which is to be restricted, and he may, from time to time, modify or revoke in whole or in part any proclamation issued by him under this section when he shall find that the conditions which caused him to issue his proclamation have ceased to exist or have so changed as to justify in his opinion such modification or revocation.

(c) The President shall, from time to time, by proclamation, extend such restrictions as are imposed under this section to other countries as and when they may become involved in such war.

CONTRABAND, WAR MATERIALS, EMBARGOES

As we learned in the World War and as we are learning again in the present Italian conflict, many of the goods which we export are just as important for the conduct of war as the arms and ammunition used on the battlefield. Many of our controversies with the belligerents in the World War arose over other articles declared to be "contraband or conditional contraband." I have advocated in the past an outright embargo on shipments of contraband to the warring nations. I would still like to see a stronger provision to forbid such shipments, but it is difficult, if not impossible, for this or any future Congress to determine which articles will become war materials in any future war, and the effects in our own country of a total embargo cannot be totally ignored.

The quota system in this bill and the similar provision in the administration bill are a compromise. The important thing is to prevent the development of a huge abnormal trade in essential war materials. If such an increase is allowed to develop it is sure to entangle us economically with the warring countries, as it did in the World War. History repeats itself, especially when the memory of our error is dim, and the hope of profit is bright.

Our bill is not automatic but it declares the purpose of Congress very clearly by *requiring* the President to examine the increases in the exportation of essential war materials and to enumerate them by proclamation. He has to find as a fact that they are in any particular way essential war materials.

MISUNDERSTANDING ABOUT THE WORDS "MANDATORY" AND
"DISCRETIONARY"

I want to discuss at this particular point some words that have been misnomers in our discussions. I have been talking about mandatory neutrality and discretionary neutrality. When we pass a law on the subject of murder we do not tell the district attorney: "Now, you go out and pass a proclamation against murder." He automatically does things that he is required to do by law. And the same thing is true with the President of the United States. We enact a law and it is not necessary for us to say that this law is mandatory. It is just a law, and I believe that in writing this law, if it is loosely drawn, to the extent that he has a great deal of wide, discretionary powers, it might be held unconstitutional. I am not a judge of the Constitution. But when we have contending commercial interests and their "rights" might not be equally applied in a strictly—well, I am getting back to that word "mandatory" again—equally mandatory fashion, why, it might be held unconstitutional.

Having found that fact he must announce a definite quota for such essential war materials. It is laid upon him to establish as a quota the average annual exports from the United States to any belligerent for a 5-year period preceding the outbreak of a war. The war boom in key war materials is thereby prevented before it starts.

It is believed unconstitutional by some competent attorneys to allow the President to vary this quota. Congress may delegate to the President the enforcement of a quota provision if and when it

declares and defines that quota as definitely as it is here defined. It cannot constitutionally give him a free hand to vary that quota from the pre-war average to zero. This bill provides against transshipments in excess of quota through neutrals.

FOREIGN NATIONS MUST TAKE THE RISK

All the key materials sold to belligerents, together with all other commodities going to belligerents, must be carried in the vessels of foreign nations and at the risk of a foreign government or national. It is believed that in another war involving nations with large fleets or air fleets much of this tonnage will be sunk.

Our bill goes further than the administration bill by stating clearly that the United States does not assume any obligation of any kind to see to it that such quotas arrive in the ports of belligerent nations. They may be bought by any country which thinks it can transport them safely and can pay cash for them. Our bill also instructs the President to make public the names of people exporting these essential war materials, together with the quantity and value of such exportations.

MR. CALDWELL. Mr. Chairman, I think it would be well if the witness would define his term "essential war materials."

MR. MAVERICK. The definition of "essential war materials" is a very difficult thing. I think that both of us are attempting to make it so that the President can determine what these essential war materials are, and you cannot tell in advance what essential war materials are. It depends on the nature of the war and the things a given nation finds necessary.

The CHAIRMAN. You will leave that to the President.

MR. EATON. How can the President tell?

MR. MAVERICK. That is where the question of discretionary powers comes in. We want to make it as mandatory as we can, and there are certain cases where he can use that power to define what they are. I don't know how to answer that question.

MR. SHANLEY. When you use the words "key materials" do you really mean essential war materials? "Key materials" is simply what the League of Nations has drawn up as key materials.

MR. MAVERICK. Yes.

MR. SHANLEY. Do you mean that or do you mean munitions?

MR. MAVERICK. No; I mean "materials", and it is hard to define. I think that to get a long definition of contraband and war materials would probably take an expert an hour. I must necessarily comment on this in a rather superficial way. I know the type of legislation I should like to see enacted; on certain details, however, I am unable to answer.

MR. LAMBETH. Judging by your previous remark, if you were selecting those materials you would put wheat among them, wouldn't you?

MR. MAVERICK. Yes; and I would put corn from Texas, and oil at least on quotas, if it would save us from war.

MR. LAMBETH. What would you leave out if you were making the list, if you were President—medicine?

MR. MAVERICK. I would leave out medicines. I would leave out diapers, underwear, ladies'—fancy ladies' shoes.

Mr. RICHARDS. As I gather, you would not say now what would be essential war materials?

Mr. MAVERICK. This is a matter on which I cannot give a definite answer—it is a matter which must be determined.

Mr. RICHARDS. Nobody can tell now?

Mr. MAVERICK. Nobody can tell now. In other words, you are asking me to prophesy something.

Mr. BLOOM. Mr. Maverick, would you kindly define a little bit more clearly “fancy ladies’ shoes”? I didn’t get that.

Mr. MAVERICK. This kind——

Mr. BLOOM. No; the “fancy ladies’ shoes.”

Mr. MAVERICK. Well, the kind that—— [A flashlight photograph was taken].

Mr. EATON. Will you go into the matter of diapers?

The CHAIRMAN. Let us have order. Proceed, Mr. Maverick.

Mr. MAVERICK. All right. Now, wait a minute. I wish you would stop getting me off the track.

Mr. BLOOM. Well, I got you on a good subject.

Mr. MAVERICK. I am speaking now of section 4 in the Maverick bill and section 7 in the McReynolds bill. The Maverick bill automatically prohibits American vessels from carrying arms, ammunition, or implements of war, or any essential war materials in excess of quota—that is, essential war materials in excess of quota—to belligerent states.

Mr. LAMBETH. Just one question now: You are making a comparison, as I understand, between the McReynolds bill and the so-called Nye-Clark-Maverick bill? Am I correct about that?

Mr. MAVERICK. The McReynolds bill and the Nye-Clark-Maverick bill.

Mr. LAMBETH. The other bill also has the endorsement of Father Coughlin and his Union for Social Justice—am I correct in that?

Mr. MAVERICK. Which one?

Mr. LAMBETH. The Nye-Clark-Maverick bill is endorsed by Father Coughlin and his Union for Social Justice—am I correct in that?

Mr. MAVERICK. I haven’t any idea. I really don’t know, but if Father Coughlin endorsed it, it is all right with me, and if he didn’t it is all right, because I don’t care anything about Father Coughlin. My personal opinion is that Father Coughlin is not familiar with the bill.

Mr. LAMBETH. I don’t want to intimate that there would be anything wrong about that, but I am interested in a comparison between the two schools of thought that you are now summarizing.

Mr. MAVERICK. I don’t think that it is at all relevant to this discussion what Father Coughlin thinks, because I don’t care what he thinks and I don’t believe you do. Besides, I am a member of no “school of thought” in which the thoughts are dictated by some one else.

This section of our bill instructs collectors of customs to withhold clearance if any American vessel is about to carry arms or essential war materials in excess of quota from any American port and provides a penalty of \$100,000 or 10 years’ imprisonment for violation.

AMERICAN VESSELS IN HOSTILE WATERS, "FREEDOM OF THE SEAS"

Section 5 of the Maverick bill is omitted in the Administration bill, but I am going to try to describe it. Our bill automatically prohibits American vessels from trading in waters adjacent to a belligerent state, "which are also actually within the zone of belligerent operations", found in the Administration bill. It is important if we are to avoid the sinking of American vessels.

Any major European war is expected to be attended by a far greater sinking of tonnage than in the World War. Nations involved in such wars will need to call in their own merchant fleets for use either as troop transports or as carriers of the most necessary products to the armies. The American merchant marine will be called upon for the trade with neutral nations in South America and elsewhere, and in the Orient in case of a European war. It is believed that it will be kept as active as it is at present, or even more active.

Now, in all these discussions I have come up against men who have studied international law considerably more than I have. I studied it at college and some since. And they begin to use rules and regulations, and I always find that there is always some sort of a demagogic appeal about the "freedom of the seas"; such table pounders appeal to our vanity and say, "Are we going to give up our freedom of the seas?" and so on.

I don't look at it that way, particularly, although if necessary I will. I look at it as enacting our own laws, which we are going to do in order to preserve our country. If we, in the first place, gather to ourselves certain ideas of getting insulted the first time somebody says something to us, why, we are very likely going to get insulted. If we as a nation, go swaggering about among the rest of the nations with a chip on our shoulders, and "making money" somebody may knock that chip off. So I don't think that when we talk about the freedom of the seas we ought to do it from the emotional standpoint. We must consider how much that "freedom" is worth, or whether it is freedom at all or not.

Section 6 of the Maverick bill is not in the administration bill. The Maverick bill automatically prohibits the transfer of American vessels to the registry of a foreign government for use in transporting arms or essential war materials in excess of quota. This provision is not in the administration bill. I am just making the suggestion that you gentlemen consider that.

Section 7 in the Maverick bill is the McReynolds bill section 9. This section in our bill makes it automatically unlawful, upon the outbreak of a foreign war, for any person to export by sea from the United States to a belligerent through a danger zone except at the complete risk of a foreign government or national. It inaugurates part of the cash-and-carry policy. No American citizen or company is allowed to retain any right, title, or interest in any such export, nor is such title to be recognized by the courts.

This goes further than the administration bill, which gives the President discretion to require American citizens to take the risk of commercial transactions.

FOREIGN SHIPS, AMERICAN CARGOES, CAUSED TROUBLE

The great majority of our disputes with foreign belligerents between 1914 and 1917 did not involve the sinking of American ships, as is commonly supposed. They involved the sinking of foreign ships carrying American cargoes, and occasionally passengers. It is believed that a main cause for war can be avoided and the American merchant marine be kept above water by this provision.

Section 8 of the Maverick bill as against section 10 of the McReynolds bill. The Maverick bill goes further than the administration bill in prohibiting travel by American citizens. Automatically, upon the outbreak of war, it becomes unlawful for American citizens, except those already traveling or those returning from a foreign country to the United States, to travel on belligerent ships or on ships of other countries proceeding to or through waters surrounding belligerent nations which are also active war zones. The administration bill really allows citizens to travel at their own risk and does not prevent them from taking passage on American ships, which may be passing through war zones.

The travel of American passengers on belligerent ships was allowed during the World War, and Americans traveled on ammunition-laden ships, always an enemy target. The administration at the time found it impossible to change its policy to forbid this practice, because it had not been announced at the beginning of the war. That is the reason it ought to be done now.

Mr. EATON. Will you excuse me? The real reason was that we did not have the ships. That was the real reason.

Mr. MAVERICK. Oh, yes. If we keep on with these high tariffs, we won't have the necessity for any ships—

Mr. EATON. If we had a low one, it would give lots of trade to foreign ships—

Mr. MAVERICK. O. K. with me. But let me talk about the bill. This section announces the policy very emphatically that globe-trotting individuals shall no longer have the right to involve any lives other than their own when they mingle their own fate with alien targets.

Let's proceed to sections 9 and 10 in the Maverick bill on loans and credits, and the McReynolds bill, section 4:

The Maverick bill makes it automatically unlawful upon the outbreak of war for any person to sell in the United States the securities of a belligerent nation when the benefactor from that sale would be a belligerent government. Its provisions are tighter than the administration bill, and provide that no new belligerent obligations can be listed on any securities exchange in the United States. The person to whom such a new belligerent obligation is sold may sue the seller for damages. The definitions in this section are the same as in the Securities Act of 1933.

This section means that no new belligerent loans may be raised in this country, either by the belligerent governments or by belligerent nationals, such as foreign industrial companies, when they would turn the result of their own borrowings here over to the belligerent governments. Loans outstanding in this country before such an outbreak of war are not touched.

That means Vickers or it means Krupp, the French group, or any great industrial concern or munitions manufacturer in a foreign country.

It is intended that the business of this country with belligerents shall not be on the basis which prevailed during the World War, when this country was in the position of advancing its customers its own money. It was a silly proceeding in which we lost.

The need for strict regulation of credits is shown by the evidence which the Senate Munitions Committee is bringing out in its investigation of our World War financing. For instance, they unearthed this memo of Secretary Lansing which showed that this question of credits came up from the very beginning. I heard Mr. Morgan testify very positively against the danger of the German Government—so they immediately began to make loans and credits. This should be strictly forbidden.

The section on credits, section 10, simply forces the President to use the powers to restrict a credit loan which were given to him in the Trading with the Enemy Act of October 6, 1917.

Mr. KLOEB. May I interrupt there?

Mr. MAVERICK. Yes, sir.

Mr. KLOEB. To what extent are your sections 9 and 10 more drastic than the McReynolds section 5?

The CHAIRMAN. You have a statement there that yours is automatic, and the same language is used in your bill as in the committee bill.

Mr. MAVERICK. I don't think that the McReynolds bill prohibits the extension of credit as effectively as the Nye-Clark-Maverick bill.

The CHAIRMAN. One minute, though, Mr. Maverick. You said yours is automatic. Your bill provides:

Upon the outbreak of war between or among two or more foreign states, or if any such war is in progress on the date of enactment of this act the President shall proclaim such fact.

That is what your bill provides.

Mr. MAVERICK. Yes.

The CHAIRMAN. The bill that we have here before us, known as the McReynolds bill, provides

Whenever the President shall have issued his proclamation.

Mr. MAVERICK. Yes; but that means—mine says that the President shall do it "on the outbreak of war" and you say "whenever the President shall have issued his proclamation under section 2." That is the point I made a few minutes ago. If the proclamation in section 2 is not made until the last day of the war, this section on loans does not apply, nor go into effect at all.

The CHAIRMAN. Well, each depends upon the proclamation.

Mr. MAVERICK. No; but we tell the President he has to do it when the war starts and yours says "whenever he shall do it."

The CHAIRMAN. "Upon the outbreak of war".

Mr. KLOEB. Oh, no.

The CHAIRMAN. Oh, no; you are wrong. You have another proclamation in yours and we haven't.

Mr. KLOEB. It appears to me that section 5 (a) of the McReynolds bill is not drafted as stringently as sections 9 and 10 of the Nye bill.

The CHAIRMAN. You provide another proclamation, and section 5 of our bill provides "upon the proclamation of war". You are exactly right, Mr. Kloebe.

Mr. CALDWELL. I would construe the word "proclamation" here to mean proclamation relating to securities.

The CHAIRMAN. And not the proclamation of the existence of war.

Mr. MAVERICK. You mean "whenever the President shall have issued a proclamation of war it shall thereafter" be mandatory as to loans and securities?

The CHAIRMAN. Yes.

Mr. MAVERICK. I see. But under your bill the President does not have to make his proclamation at the outbreak of war—only "during the progress of war".

The CHAIRMAN. Yours provides that he shall issue another proclamation.

Mr. MAVERICK. Well, of course, if the President makes his proclamation, as I understand it now, it is mandatory in your bill.

The CHAIRMAN. Yes; it is mandatory.

Mr. MAVERICK. If the original proclamation is made.

Gentlemen, we are all of us patriotic men trying to do our duty, and we consider the subject in a nonpartisan spirit for the sake of our country.

IS A HUMAN LIFE MORE VALUABLE THAN A BALE OF COTTON?

I just want to mention one or two things that happened to me this summer. I went down to Houston, Tex.—and Houston is the greatest cotton and oil center now in the world—and I made a public statement that I would just as soon close every port in the United States, including Houston and Galveston, if it would save the life of one human being. And the reaction I got was to the effect that the people in Houston or Galveston that are in the cotton and oil business would be willing to lose all the money that it was possible to make, if they thought it would save human lives and keep us out of war.

I believe whether the American people have learned anything else or not, there is one thing they have learned; that is, that they want to stay out of war. This is the only danger to this committee—and I don't mean this in a sanctimonious way—or any other committee, is likely to run into, and that is our emotional reactions may have something to do with our conclusions.

Consider the "freedom of the seas." Some fellow comes up here who is not going to have to fight in any war, somebody that has read a lot of books and knows a great deal, and he gives you a long dissertation on the law and then ends up by making some statement about this Nation giving up its sovereignty, more brave words that mean nothing.

Individually, it is more or less like a fight in the neighborhood. I would like to keep all my neighbors peaceful and keep them from fighting. But if they have guns in their hands and they are liable to kill me when I walk out on the sidewalk, I am going to stay in the house.

Somebody said the other day "What about our moral duty to the world?" and "civilization may be destroyed." Well, I think civilization may be destroyed; I think it runs a good chance of it—

Mr. EATON. Would you be in favor of it?

TOO LATE FOR LEAGUE NOW

Mr. MAVERICK. Some of it I would, but I hope not by war. I think we ought to do at least this much for the world, and that is save civilization for ourselves, because practically everyone of us, whether we are for the League of Nations or against the League of Nations, feels that it is impossible for us to enter into this organization now even if we wanted to. We have got to quickly enact legislation and put that into effect, which is a revision of our neutrality policy, before entanglements and wars make it impossible to enact these laws.

So I just hope that you gentlemen will not give too much weight to talk about the freedom of the seas and possible insults and all that, and enact a strict, mandatory neutrality law.

Mr. CALDWELL. Now, Mr. Chairman, just that Mr. Maverick's position may be made doubly clear, are we to understand that it is your attitude—and this is not argumentative, simply a request for a statement of fact—that in order that the *n*th degree of neutrality may be reached you are entirely willing to sacrifice the so-called freedom of the seas of this country, its foreign commerce, and its merchant marine?

Mr. EATON. And the city of Houston?

Mr. MAVERICK. And the city of San Antonio—that is in my district.

No; of course not; that is an extravagant statement. That is certainly a leading question, you will have to admit. Yes, it is an extravagant statement, because I have stated that I am willing for the quota system to be invoked. And, if we have a quota system and the people of Texas sell as much oil as they did before, they are entitled to no complaint, and neither has a foreign country who gets the usual quota.

Now, in Texas we have, for instance, oil wells down there that will produce 80,000 barrels of oil a day that are cut down by proration to 20 or 30 barrels a day. If we got a first class war, we could probably increase that to 15,000. Texas is the greatest oil center in the world. We want to increase that production. We want to sell more oil. But we do not want to sell more oil where it is going to cause the loss of human lives. That is the point I want to make.

And as to the freedom of seas, I think I explained that this way: We do not abandon the "freedom of the seas" because we never did have the freedom of the seas. We claimed some rights which none of the belligerents recognized, and the only way we could get respect for those rights was to go to war. We now propose a neutrality policy in which we say we are not going in certain hostile zones. That does not mean that we cannot go there if we want to repeal this law.

But if you want to say that I am willing to give up the freedom of the seas if it saves human lives and it keeps us from getting into war, yes; that is true.

Mr. CALDWELL. It is inevitable that the pursuance of the policy outlined by you would mean the complete elimination of the merchant marine; would it not be?

Mr. MAVERICK. No! No; because if they had an outbreak of a war in Europe, just as England lost her South African trade, Man-

chester, and all those places up there that were the great textile centers, we got that business. We will say that the world has a certain prorata of trade. England, the British Empire, has the greatest oriental trade, I presume, of any nation in the world, much more than we have, and if England got into a war, we would probably get some of England's trade. And I don't suppose that they are going to be fighting in every part of the world, and I think that the merchant marine would not be cut out. But if war comes, there will be restrictions one way or the other, that is certain.

Mr. CHRISTIANSON. Wouldn't it also be considerable of a sacrifice, but a wise one, on our part to subsidize the merchant marine to the extent of losses which they might be forced to incur, rather than plunge into another war, participating in its costs?

Mr. MAVERICK. I don't know whether I have any definite answer on that. I cannot tell.

Mr. CHRISTIANSON. It would be a good deal cheaper to compensate a merchant marine for a possible loss resulting from stringent neutrality regulations than it would be to go ahead and become involved in the war and pay the cost of it as we did in the last conflict?

Mr. MAVERICK. Oh, I understand what you say now. I don't believe in subsidies. I thought you were talking about the ship-subsidy bill—

Mr. CHRISTIANSON. An extraordinary subsidy.

Mr. MAVERICK. I say frankly, I am willing to vote for a tax for nearly any kind of a subsidy to keep us out of war, because I know, without figuring out, the war will cost us more. Even if we lost the whole cost of the subsidy, it would still be cheaper if it saved human life.

Mrs. ROGERS. Do you think the foreign countries might want us to subsidize them also if they have losses?

Mr. MAVERICK. Well, now, that is getting a little extravagant, too. The best way to keep from subsidizing foreign countries is to stay out of war. We will just talk about that point now. You take in the World War: I think Calvin Coolidge said this, so that nobody can deny it from the State of Massachusetts, that we lost something like 150 billion or 200 billion dollars during the World War by the destruction of property values. In addition to that, the foreign powers owe us 12 billion dollars, and if we really added the interest it would be about 25 billion dollars. Part of those figures are mine and part of them Calvin Coolidge's, so I know part of them are right. But that's pretty much of a subsidy of war.

When they talk about losing commerce and foreign trade, we are thinking in absolutely temporary terms. Call it subsidies if you want to, you can call it anything you please—we cannot spend enough money to stay out of war but what we are bound to lose more in case we got in war. I just know that is a fact.

Mr. MARTIN. On the whole, as I gather from your evidence, you believe, now that you know the terms in the McReynolds bill, that you prefer that to your bill? Do I understand that is your position?

Mr. MAVERICK. No. I think the McReynolds bill is an excellent bill, but I do think certain corrections can be made.

Mr. CHRISTIANSON. How about section 4 of the McReynolds bill? That is about discretionary embargoes on commodities that are not considered contraband.

Mr. MAVERICK. I think the mandatory principle ought to run all the way through. I want to show you the difficulty of one man talking on this. This is one thing that has always impressed me from the beginning. I have certain ideas on this, certain general ideas. The specific working on neutrality has got to be done by conscientious men in the State Department and by a conscientious following of the law by the President of the United States. When one Congressman, even though he is very bold, comes before twenty-odd smart people and they pepper him with a lot of questions, he cannot answer all those questions. The successful accomplishment of neutrality is all predicated on the fact of our enacting a law which is conscientiously drawn and that is then conscientiously carried out. I don't know that my opinion on all of these details here is of any value anyhow.

The CHAIRMAN. In suggestion of that may I read this—you will pardon me—section 4 to which you referred:

In the conduct of war, will serve to promote the security and preserve the neutrality of the United States.

Now, their provision is: "Would endanger the maintenance of peace between the United States and foreign states." That is similar. It is "or jeopardize" in the Maverick bill "the neutrality of the United States", and in what is known as the McReynolds bill, "or to protect the lives and commerce of nationals of the United States, or that to refrain from placing such restrictions would contribute to a prolongation or expansion of the war and shall so proclaim." And you say that he shall so proclaim.

Now, where do you get much difference? There are three provisions under either one of which he can issue the proclamation, in the McReynolds bill; and there are only two in your bill, and for the two in your bill we have practically the same two in practically the same language in our bill. I have been reading from both bills. In other words, we give just another ground to issue the proclamation more than you have.

Mr. MAVERICK. I think, so far as that is concerned, that provision there, predicated on the conscientious carrying out of what Congress wants, will be sufficient.

The CHAIRMAN. I think that is right. We give you more provisions under that.

Mr. RICHARDS. Mr. Maverick, you have been peppered with questions here about the doctrine of freedom of the seas. Hasn't your study of this question shown you and everybody else that has studied it that there is no such thing as actual freedom of the seas in time of war?

Mr. MAVERICK. Yes; because we have certain theoretical international rights and we have certain actual practical rights, and if we have the freedom of the seas but we get our ships sunk, why, that is not much freedom. I have the freedom, for instance, of walking down certain streets, but if I get killed, well, then, that freedom does not amount to much.

Continuous dissertations on international law, especially by students and sophists—(we keep on talking, and in the meantime we get in trouble) and I read, I don't know whether it is true or not, that the United States has never had the right of the freedom of the seas.

The CHAIRMAN. Mr. Lambeth desires to ask you a question.

Mr. LAMBETH. Mr. Maverick, I interrupted you a while ago without any intention to attempt to discredit your bill by referring to the fact that it had the endorsement of Father Coughlin and his Union for Social Justice. I did it because I thought that it would indicate difference in the various schools of thought on this question.

Personally I rarely agree with Father Coughlin on political or economic questions, but I have no religious intolerance. We are now coming to grips as to the difference between the various schools of thought upon this subject. I think it is safe to say that 99 percent of the American people want to keep from becoming involved in the next great war, which seems to be all but inevitable.

There is a school of thought represented, I think, best before this committee yesterday by Professor Borchard, the eminent authority on international law, equally sincere, equally desirous to keep us from becoming involved, which fears that any neutrality legislation beyond the briefest, and limiting it almost to the embargo on shipment of arms, might be more likely to cause us to become involved.

Then there is a school of thought represented by yourself, and I am sure that all of us always hear you with interest and pleasure, because we know that you are sincere. We respect you, and certainly I was not intending to be facetious a while ago, and I hope not irrelevant.

Your school of thought apparently favors your bill in preference to the so-called McReynolds bill, because it is more mandatory and less flexible and gives a minimum of discretionary authority to the Executive.

Then we have the bill of the chairman of this committee, which I think is a middle-ground policy.

Now, I want to ask you two questions relative to fundamental differences between those bills. Section 3: Your bill says that "upon the outbreak of war", and so forth, "the embargo on arms becomes mandatory" and it might be said "automatic."

The McReynolds bill says "upon the outbreak or during the progress of any war."

That is an essential difference. That clause represents an essential difference.

Now, I want to ask you this question in that connection: Under the modern method of making war, how can it be determined? How can you have any fixed definition of when a war breaks out? For instance, how can you distinguish between an outburst of temper resulting in a skirmish on the border, or how could you say just the moment of the day when war broke out between Japan and China in Manchuria or between Bolivia and Paraguay in the Chaco? Under the modern method of making war we all realize there is no declaration. I would like you to answer that question, please.

Mr. MAVERICK. The international idea of war was based on the old idea of first to declare war and then they started war. The new idea of war is a nation starts a war and then when they get around to it they declare it. I believe that when we discuss war we have got to discuss it just like the status of marriage.

Mr. LAMBETH. I am afraid I cannot add anything to the discussion of that subject.

Mr. MAVERICK. I don't mean the war part of it; just looking at it from a legal standpoint. A common-law marriage is based upon the status of these two parties, whether they got a license to be married or not. Now, it is the same way with war. The status of war, it seems to me, will be determined on the basis of the major activities of those two nations, or if troops of one nation are on the soil of a foreign nation. I think it is perfectly reasonable to say that, for instance, when we went down into Mexico to get Pancho Villa we were at war.

Mr. LAMBETH. Because our troops went on Mexican soil?

Mr. MAVERICK. Yes.

Mr. LAMBETH. But I must call you back to this thought: Your provision makes it automatic. You do not say that whenever, in the judgment of the President, there is a state of war, as distinguished from a mere skirmish or clash that is precipitated by some brawl maybe in a saloon or something of that kind. Now, I would like you to answer that.

Mr. MAVERICK. Of course, now, the question you are asking me, I presume you mean, is that it is predicated on a war being in existence, and then the President has got to do it, and you want to know how is the President going to determine that fact?

Mr. LAMBETH. No; you do not give the President the power to determine it. You say, "upon the outbreak of war he shall declare an embargo."

Mr. MAVERICK. Why, certainly—when he proclaims there is a war.

Mr. LAMBETH. We say that "whenever a state of war exists or during the progress of the war"; or, to put it in other words, "when, in the judgment of the President, there is a war", as distinguished from a mere skirmish.

Mr. MAVERICK. Well now, I believe—

Mr. LAMBETH. Now, this is a matter of pure common sense I am trying to put to you; and I want, if you please—and I am not pressing you and I do not wish to embarrass you, but I frankly think that is a fundamental difference between the bills, and I would like you to tell me how it could be automatically determined within any day there was a war and the embargo would become effective, without leaving it in the judgment of the President or some person to say that there is a war and therefore have an embargo on the shipment of arms.

Mr. MAVERICK. Of course, you understand that the reason I cannot answer that accurately is because we haven't the precedents on which to base that except the declaration of war. That is correct, isn't it?

Mr. LAMBETH. I beg your pardon?

Mr. MAVERICK. The only precedent that we have concerning war is the declaration of war, and I believe it is necessary to set up some precedent as to the status of war,—in other words, what constitutes war—because you talk about a war starting without a declaration.

Mr. LAMBETH. There is no longer ever a declaration of war. There has not been a declaration of war in the last 5 years that I know of.

Mr. MAVERICK. No. But quite obviously, Italy and Abyssinia are at war with each other. We do not have to go and sit down and

write to Italy and say, "Now, did you declare war against Abyssinia", because we know the troops are there.

Mr. LAMBETH. But the question is, Upon what day did the President apply that embargo? He did apply it promptly, and I don't think you gentlemen who subscribe to your theory have any criticism of the President's action.

Mr. MAVERICK. How did he do it then? They didn't do it; how did he determine it?

Mr. LAMBETH. Because in his judgment there was a war.

Mr. CHRISTIANSON. As a matter of fact, Mr. MAVERICK, lawyers will assert that there is war today between England and France on the one hand and Italy on the other; isn't that true?

Mr. MAVERICK. Obviously, it is necessary, in order to make a law of this kind effective, to empower some official to declare when there is a war.

Mr. LAMBETH. Now, if I may ask you the other question. I don't want to detain you or the committee unduly but I am very much interested. I am trying to preserve a neutral attitude. I frankly admit that my inclinations are all toward the McReynolds bill, and may I put this in the record, because I want it in the record: The reason I mentioned Father Coughlin was not, I repeat, in any way to reflect upon him or to discredit your bill, but because he had as much to do with the defeat of the World Court as any man, and I would have voted for adherence myself and I think you would have. And I am not asking you that question, because it is not relevant.

Mr. MAVERICK. I still think that is not altogether relevant, but I am going to answer it.

Mr. LAMBETH. No, it is not; and I am not going to ask you.

Mr. MAVERICK. I am going to answer it, because it is in the record. I admit that my inclinations are to international agreements and the World Court. I hope this will be true eventually. I have been called an isolationist and praised because I am an isolationist, but I am not. I do not believe the League of Nations possible at this time. Now, let me finish.

Mr. LAMBETH. Let me ask you this question, because you are commenting on another question. I am afraid that I am trespassing, but I want to ask you this other question: The McReynolds bill provides in connection with these quotas—and that seems to be another fundamental difference between your bill and the McReynolds bill—first, as to the base period. The McReynolds bill, I think wisely, leaves it in the discretion of the President to determine the base period. Your bill sets up the yardstick of the 5 years immediately preceding the war.

We have experienced in connection with the late lamented Agricultural Adjustment Act the difficulty of having a uniform base period for all commodities. For instance, I am interested in tobacco. We had to set a different base period for tobacco from cotton, definitely different. I merely cite that to show you why I am asking you this question.

Further, the McReynolds bill provides that the President should set up these quotas—and I am not quoting the exact language but I am quoting from my interpretation of it—that the President should set up these quotas if it would serve to promote the security and preserve the neutrality of the United States or to protect the

lives and commerce of nationals of the United States, or that to refrain from placing such restrictions would contribute to a prolongation or expansion of the war and a prolongation or expansion of the war would increase the danger of our becoming involved.

Your bill takes no account of that. Will you please state your feeling as to why you favor your bill in preference to the McReynolds bill in view of that statement of a fundamental difference?

Mr. MAVERICK. I have been down to the State Department, where I have seen long tables of tariff and trade agreements with books and papers by the thousand. It seems to me that if we would make this absolutely mandatory the President would have to sit up all day and all night for the next 10 years in getting up these trade tables, because there are many major commodities, if we had to tabulate and enumerate all of them.

Mr. LAMBETH. You mean that you are in doubt and perhaps lean to section 5 of the McReynolds bill in preference to your bill?

Mr. MAVERICK. If I say "I lean to the McReynolds bill" the papers would say I had capitulated, and I do not want to do that. Permit me to courteously disagree.

Mr. LAMBETH. I am not trying to make you capitulate.

Mr. MAVERICK. Mr. Lambeth, in making my talk here today I made the statement when I started out that I had very positive views and they are less positive now than when I started.

Mr. LAMBETH. I think we all agree with the remark Judge Moore quoted the other day in executive session, and it is not improper to quote that here, about the experience of Victor Hugo when he was a member of the French Senate and started out on a problem that he thought was very simple, and the further he got the more complicated the matter became and the less certain he became about his own views. Mr. Chairman, there are other fundamental differences between the two bills, but I will not detain the committee further.

The CHAIRMAN. I was very much interested in the Governor's and Mrs. Rogers' questions, and especially Mrs. Rogers' question in reference to the making up of the losses of ships, and so forth. I presume that you do not agree with this section. It was drafted by the National Peace Group in New York a few days ago, and their bill was published. May I read just a section of it:

It is declared to be the intention of Congress that any person having American nationality who suffers pecuniary loss or damage from the prohibition on the export of goods or commodities included in any supplementary enumeration proclaimed by the President under the authority of subsection (b) of this section shall not individually bear the loss thereof, but that such loss shall be distributed and borne by the people of the United States as a part of the cost of avoiding the involvement of the United States.

You do not agree to any such provision?

Mr. MAVERICK. No. Mr. Chairman, I just want to make a statement at the close, because I do not want to try to be humorous, but there was an old colored man that didn't know how to write and they would make him write a little bit and then ask him questions about it—"Why, if you wrote this, can't you read it?" And he says, "I writ it. Now you read it." And that is my attitude on this bill. [Laughter.]

Mr. EATON. Mr. Chairman, I have great affection and respect for Mr. Maury—I don't want to say Maverick, I don't like to mention

that name because it has implications. But I regard Mr. Maverick as doing a very fine service, and in his remarks here he unconsciously called attention to what I think is the great danger of this legislation.

There is no doubt in the world that this is the most important piece of legislation probably that will come before Congress in many, many years, and the implications of it and the repercussions that occur after it is passed none of us can predict. We are hoping that it will do the thing we want it to do.

So he mentions emotionalism and cold reason. Now, if ever there was a time when we need to reduce the amount of emotionalism in connection with the proposed legislation, now is the time.

So when Mr. Maverick mentions that he would be willing to blot out the great city of Houston—I am not from Houston; it is not in my district—in order to save the life of one person, I hope he will abandon that method of approach and so will the people associated with him, for the simple reason that we kill a hundred people in this country every day on our highways, and last year we killed and wounded more people on our highways than were killed and wounded in the whole World War; and if you are going to blot out the city of Houston to save one life in war, how many cities will you blot out to save a hundred on the highways every day? So don't do that, brother. This is a preacher speaking.

Mr. MAVERICK. I didn't say anything like "blot out the city of Houston." I didn't say that, and naturally had no such idea.

Mr. CALDWELL. Let me ask you there: Is there a fundamental difference between starving the population and having a few people killed?

Mr. MAVERICK. Starving what population?

Mr. CALDWELL. This population.

Mr. MAVERICK. Oh, now, there isn't anything to that at all, about starving the population of the United States. All of us here know that is just absolutely and utterly out of the question. In the bill that I presented and in the McReynolds bill before this body it provides for embargo on ammunition and munitions of war; and both provide for quotas. If the population of the United States sells the same amount of food that it did before, and the same amount of commodities, and has the same commercial ratio with foreign trade, it cannot starve by virtue of this bill, either one of these bills. That just absolutely is wholly aside from the issue.

It is just statements like that—and I say this in a good humor—attributing to me to "blot out the city of Houston" and "starve populations"; that is going to get us in war. Absolutely; I am saying that as the truth. I didn't say anything like that, I don't think anything like that, and I don't think anybody on this committee thinks it.

Mrs. ROGERS. If there were an embargo perhaps on some things, that would lessen the deaths on our highways?

Mr. MAVERICK. I would be tickled to death, because I have a boy 15 years of age that I am afraid is going to get killed at any time, the way he goes around.

The CHAIRMAN. Mr. Maverick, we are very much obliged to you.

Mr. MAVERICK. Thank you very much.

The CHAIRMAN. Very much obliged to you. Now we have Professor Harriman.

Mr. FISH. Mr. Tinkham is not here, but I am sure he will be soon. I think we are ready to hear Mr. Harriman, because we haven't very much time.

**STATEMENT OF EDWARD A. HARRIMAN, ATTORNEY AT LAW
WASHINGTON, D. C.**

The CHAIRMAN. Mr. Harriman, you may proceed in your own way, and I suggest that we let him get through and then if there are any question we can ask him then.

Mr. HARRIMAN. My name is Edward A. Harriman, Washington, D. C., lawyer, writer on international law, colonel in the inactive reserve.

"International law consists of the concessions which Great Britain has made to neutrals." This definitions, attributed to Ambassador Bernstorff, while not entirely accurate, is highly suggestive.

To obtain those concessions the United States has paid a great price, and they should not lightly be abandoned. Unfortunately, as the result of a highly subsidized peace hysteria, many people have been led to believe that the abandonment by this country of our rights as a neutral will tend to keep us out of war. It is true that the immediate cause of our entrance into the last war was the assertion of our rights as a neutral against the unrestricted German submarine warfare. But if you will read Walter Millis's book you will see that there is made out a strong case showing that the German nation in adopting this policy of unrestricted submarine warfare was largely influenced by the failure of the United States to assert effectively and vigorously its rights as a neutral against Great Britain, and it is an open question whether the failure to assert our rights against Great Britain was not the real cause of our getting into war.

I think the present embargo on munitions is a mistake. I think to extend that embargo would be a greater mistake. But Congress has the privilege of making mistakes, and the mistakes which Congress makes as a rule simply reflect mistaken sentiment on the part of the people.

I concede that at the present time public sentiment is in favor of the present embargo on munitions. I do not know whether public sentiment favors or does not favor an extension of that embargo to other commodities than munitions of war. But the mistakes of the Congress are the mistakes of the people, and if Congress feels that public sentiment requires that this embargo should be extended to food, to medicine, or to ladies' shoes, after all that is a matter on which the people are passing judgment.

Mr. TINKHAM. What do you think constitutes the mistakes? I should like to have your ideas.

Mr. HARRIMAN. Because I think our traditional policy has been entirely sound. I don't think that the attempt to restrict our trade with belligerents will by any possibility keep us out of a future war. That is a matter of opinion, and I concede that the prevailing opinion at the present time is opposed to mine.

Mr. TINKHAM. But didn't unrestricted trade bring us into the last war?

Mr. HARRIMAN. Not in my opinion.

Mr. TINKHAM. As the policy was administered?

Mr. HARRIMAN. Not in my opinion; no. I think what brought us into the war was our failure to insist upon our rights as a neutral to carry on that trade.

Mr. TINKHAM. That is what I meant by "administered."

Mr. HARRIMAN. If you mean the abandonment of our rights—

Mr. TINKHAM. As our rights were administered.

Mr. HARRIMAN. I don't think that our rights were adequately protected at the time. But the objection to this bill is the same objection that was raised to a bill against which I appeared 2 or 3 years ago before this committee, a bill which Mr. Bloom said, quite accurately, was introduced by the preceding administration. It was a bill to give the President a right to decide against which of two belligerents he should levy an embargo. That, of course, gave the President the right to decide which side he would take in case of a war.

The pending bill has exactly the same fault. If Congress chooses—

Mr. JOHNSON. Excuse me, this bill expressly denies the right of the President to choose the aggressor nation, does it not?

Mr. HARRIMAN. Oh, I beg your pardon. The President has this power; this is what he can decide. This is what depends on his opinion, section 4.

Mr. JOHNSON. I am referring to section 6.

Mr. HARRIMAN. I am referring to section 4.

Mr. JOHNSON. I am talking about another bill. Section 6 is what I am talking about.

Mr. HARRIMAN. House joint resolution; Mr. McReynolds' House Joint Resolution 422, section 4.

Mr. JOHNSON. This reads section 6.

The CHAIRMAN. Suppose we go ahead and let all questions be asked when we get through.

Mr. HARRIMAN. This is House Resolution 422, section 4.

Mr. JOHNSON. Very well.

The CHAIRMAN. Let us have order, please.

Mr. HARRIMAN. This provides that—

whenever, during any war in which the United States is neutral, the President shall find that the placing of restrictions on the shipment from the United States to belligerent countries of certain articles or materials used in the manufacture of arms, ammunition, or implements of war, or in the conduct of war, will serve to promote the security and preserve the neutrality of the United States—

That is, you leave it to the President to decide whether or not his action will tend to preserve the neutrality of the United States—and he may make a very serious error—

or to protect the lives—

Mr. FISH. As you go along in your own way and conclude your argument can you suggest any way to amend that and overcome your objections?

Mr. HARRIMAN. I should not let the President have any authority. If Congress chooses to put on an embargo, as Mr. Maverick says, I think the embargo should be mandatory. I don't think the President should have the opportunity to decide whether he shall pro-

hibit the shipment of wheat or oil or any particular commodity. That is leaving too much to the discretion of one man. Whereas, if Congress passes this thing, that is the opinion of Congress representing the American people as a whole.

The CHAIRMAN. Right there. But you are not in favor of placing any embargo?

Mr. HARRIMAN. I am not in favor of placing any embargo. But if an embargo is to be placed, the present law places an embargo which is mandatory upon the shipment of munitions, and I am not in favor of that. I think that any such embargo is a mistake, but nevertheless I can see that the public sentiment at the present time is in favor of it.

Mr. BLOOM. But you do believe in some kind of a neutrality bill, do you not?

Mr. HARRIMAN. That is—I haven't any particular neutrality bill in mind.

Mr. BLOOM. Well, some kind of a bill?

Mr. HARRIMAN. I cannot say that I think of one.

The CHAIRMAN. Suppose we let the doctor go ahead. Then we will ask him questions.

Mr. HARRIMAN. "Some kind of neutrality bill" is rather broad. I am not in favor of this embargo idea. I am not in favor because I do not believe—I am as much in favor of peace, I want peace as much as anybody, but I do not believe that these measures tend to insure peace, and that I think is the trouble with the whole pacifist movement. The object is good, to insure peace, but the means proposed do not tend to accomplish that result.

The President is given discretion, in the first place, as to whether this will preserve the neutrality of the United States or not, or to protect the lives and commerce of nationals of the United States, or to refrain from placing such restrictions would contribute to a prolongation or expansion of the war.

You see, it is all a matter of opinion, entirely of the personal opinion of one man, as to what the effect of his action will be. Now, no matter how honest or able he may be, the danger of his error is too great.

Moreover, it gives him the right to determine what articles or materials shall be exported. A President from one section of the country—a President from the North may say that the exportation of cotton is undesirable. That does not affect northern interests. Or the exportation of oil is undesirable. That does not affect northern interests.

The CHAIRMAN. You could not imagine a President who would do that, do you?

Mr. HARRIMAN. Not purposely, no; but anyone who knows the pressure that is brought to bear on any public official from different sections and different regions knows that it is tremendous.

The CHAIRMAN. You do not mean to say that there is never any pressure on Congress, do you?

Mr. HARRIMAN. Ah, yes; but the pressure on one man. Congress has 435 men in the House and 96 in the Senate. There are more men to resist that pressure.

Mr. TINKHAM. Professor, did we not see exposed yesterday pressure brought by J. Pierpont Morgan on President Wilson on the 23d

of October 1914, to become unneutral in relation to credit arrangements?

Mr. HARRIMAN. I have not read the testimony sufficiently to express an opinion on that, but I do think that it is inevitable that such pressure should take place.

Mrs. ROGERS. It is not safe to put temptation in the President's way?

The CHAIRMAN. Just one question I would like to ask you about pressure: Haven't we evidences of pressure on the President as well as Congress, especially on the bonus bill?

Mr. HARRIMAN. Yes.

The CHAIRMAN. Could there have been any greater pressure on any one man?

Mr. HARRIMAN. Yes; I think you may say that that is a domestic question.

The CHAIRMAN. This is different?

Mr. FISH. I would like to ask the chairman, in view of the statement, what the President is going to do.

The CHAIRMAN. The Chairman is not in the confidence of the President and does not know.

Mr. FISH. That is what I expected. I didn't know whether he was when the statement was made.

Mr. HARRIMAN. Mr. Chairman, let me call attention to the fact that, despite this tremendous demand of the people, as shown by the chairman's own statement, for the enactment of the bonus, the President, this one man, has stood out against the demands of the people.

Mr. JOHNSON. Two other Presidents did the same thing, did they not, President Coolidge and President Hoover, on the same question?

Mr. HARRIMAN. Certainly. The President may stand out against the people.

Mr. JOHNSON. The statement you made a moment ago was that the President would not as likely stand out as the Congress would.

Mr. HARRIMAN. On the contrary. Congress is much more apt to reflect the opinion of the people than the President is, in my opinion.

Mr. BLOOM. Are we debating the bonus or the neutrality bill?

Mr. MARTIN. Congress represent the people as a whole, and they are better represented through Congress than any individual.

Mrs. ROGERS. That is always true.

Mr. HARRIMAN. In the nature of the case, it seems to be.

The CHAIRMAN. If I get your ideas then, you would enumerate every article that might be used in war and state thus far and no farther; and whenever a declaration of war is declared, regardless of where it is or how large it is, whether other nations are doing anything about it, we shall immediately put an embargo upon all those things enumerated in the statute by Congress? That is what you say, is it not?

Mr. HARRIMAN. No. That I say I think would be a mistake. But I think it would be preferable, if you gentlemen wish to go to your constituents and say an embargo of wheat or cotton or oil—

The CHAIRMAN. In other words, you are using that as an argument against putting anything in here, aren't you?

Mr. HARRIMAN. No; not at all. I am saying that if you feel that public sentiment requires that you should put an embargo on

munitions and this is used to extend that embargo, then—Mr. Maverick makes some statement that because shoes or diapers—

Mr. MAVERICK. No; they would be on the free list.

Mr. HARRIMAN. That he preferred to trust your judgment as to what commodities should be included in that, rather than trust the judgment of any President, Republican or Democrat.

Mrs. ROGERS. Is this not true, that if pressure is put upon Members of Congress the whole country knows it.

Mr. HARRIMAN. Certainly.

Mrs. ROGERS. That if pressure is put upon the President we don't know of it until years afterward?

Mr. HARRIMAN. That is perfectly true.

Mr. LAMBETH. Turning aside for the moment from your discussion as to it being preferable for the Congress, consisting of 531 Members, to determine a matter of policy in an emergency, rather than for the President to do so, suppose you have a corporation with about 500,000 stockholders, like the American Telephone Co., and it got into an emergency situation, say a financial problem, you would favor them having the stockholders meet and determine the policy rather than the chairman of the board or the president of the corporation?

Mr. HARRIMAN. I think if you would read the life of Samuel Insull you would conclude that the stockholders would have reached a better result than the president of the corporation.

Mr. LAMBETH. Of course, that is the exception, not the rule. You are taking a man that is an exception, not the rule.

Mr. GILLETTE. Mr. Chairman, I would like to ask a question. Colonel, I believe you stated a moment ago that you are heartily in sympathy with those who are trying to maintain peace and neutrality, but that you are seeking to obtain the end of this legislation by other means?

Mr. HARRIMAN. Yes.

Mr. GILLETTE. You do not believe the suggested legislation actually would be effective to secure that goal?

Mr. HARRIMAN. Certainly.

Mr. GILLETTE. Have you any suggestions to make to the committee as to action that we could take looking to the same goal and its attainment?

Mr. HARRIMAN. I think that the best thing that the committee could do at the present time in regard to this legislation would be to do nothing at all. The next best thing is to determine what embargo shall be levied. That is the next best thing.

Mr. GRAY. Professor, you take the position that decreasing the exports on the declaration of war would not conserve peace?

Mr. HARRIMAN. I do not think it would have the faintest influence in preserving peace, not the faintest.

Mr. GRAY. Then, what do you say would be the effect of increasing the exports on the declaration of war to all the belligerents? What effect would that have?

Mr. HARRIMAN. I don't think that would have any effect on our getting into the war.

Mr. GRAY. Would it be good policy, on the declaration of war, for us, this Nation, to begin at once the increase of exports to all the belligerents, to add fuel to the flames?

Mr. HARRIMAN. The Government does not do anything. The question is, whether the Government shall interfere with the conduct of individuals in the conduct of their trade. Now, I don't think the fact that England or France or Germany or Italy goes to war is any reason whatever for prohibiting an American citizen from selling goods to them.

Mr. GRAY. Then, is it your position, Professor, that, on the declaration of war, we should not take any action in regard to imports at all? Is that your position?

Mr. HARRIMAN. I think you should take no action in regard to exports; yes.

Mr. EATON. That is your argument against embargo?

Mr. HARRIMAN. I don't believe in the embargo.

Mr. EATON. For that reason?

Mr. HARRIMAN. For that reason. I don't believe that it has any effect whatever. I think this is a mistaken belief that has been encouraged, as I say, by highly subsidized peace hysteria.

Mr. KLOEB. I presume then, Professor, that you would be of the opinion that the prohibition of loans or financial transactions would be out of order?

Mr. HARRIMAN. I don't see that it has any value.

Mr. KLOEB. But you have just argued that that was one of the causes that brought us into the World War, certain pressure brought upon the President to permit loans.

Mr. HARRIMAN. No; I beg your pardon. Mr. Tinkham made that suggestion.

The CHAIRMAN. Mr. Tinkham was the cause of your coming here. You and he are not in accord?

Mr. HARRIMAN. Oh, no. His information is later than mine. He has read the morning paper and I have not. [Laughter.]

The CHAIRMAN. Any further comments on the bill?

Mr. HARRIMAN. No; except that, as I say, the bill is full of provisions giving the President authority to determine what action shall be taken. His determination affects our action as a Nation and may very seriously affect our position as a neutral with reference to a war. Whether he says that we will not ship wheat or oil into Italy or to England or to France has a very serious effect. I don't believe that should be left to any one man to determine.

Mr. BLOOM. Doctor, may I ask you another question: Colonel, you heard Prof. Borchard yesterday in his statement with reference to the fact that the precedent of international laws will give us all that is necessary to proclaim neutrality in this country. Do you believe in that?

Mr. HARRIMAN. Yes; I think so.

Mr. BLOOM. Then you believe that this Congress should not enact any neutrality legislation?

Mr. HARRIMAN. I don't see—I haven't seen any legislation proposed which seems to me desirable to enact, but I am not familiar

with all the proposals. I am now speaking simply with reference to this bill.

Mr. BLOOM. Then you do not favor any legislation at all at this time with reference to neutrality?

Mr. HARRIMAN. I do not. But I can see that there is a public sentiment which has been created by reason of the popular belief that these measures will tend to keep us out of war. That belief I do not share.

Mr. EATON. Would you be willing to have the present legislation that closes on the 29th of February go?

Mr. HARRIMAN. I think that, considering the present state of public sentiment, that would be the general rule.

Mr. JOHNSON. Mr. Chairman, I would like to ask the witness a question. To get what public sentiment is we are talking to you now as an expert about what you think is best.

Mr. HARRIMAN. No; I personally think the entire embargo idea is unsound.

Mr. JOHNSON. In other words, you think there should be no neutrality legislation, from your own personal viewpoint?

Mr. HARRIMAN. Yes, sir; that is my view.

Mr. GRAY. Professor, just one more question: On the outbreak of war, of course, there is a great and increased demand for goods. Would you recommend that we start the factories all going and the production facilities at hand to supply that demand?

Mr. HARRIMAN. Well, whom do you mean by "we"? The Government does not start factories.

Mr. GRAY. I am talking about your opinion.

Mr. HARRIMAN. The Government does not start the factories. The business men who are running the factories decide whether or not they will increase their plants and increase their production. My feeling about the bankers in the last war was not that the bankers made loans or that the factories increased their exports, but that the loans made by the bankers were made upon the assurance that those loans would be given preference to the loans made by the United States Government.

Mr. GRAY. How could we conserve peace by increasing our exports to all the nations at war to enable them to make it larger, make it of greater proportions?

Mr. HARRIMAN. I don't think it has any effect.

Mr. BLOOM. In selling to foreign countries or to belligerents do you believe in the cash-and-carry plan or do you believe in extending credit if we were to sell to them?

Mr. HARRIMAN. I think that the question of credit is a financial question for the creditors to determine. I do not see the wisdom of the Government's telling a man, for example, in the United States that he shall not lend money to Italy today if he wants to take that risk.

Mr. CALDWELL. What about the United States extending credit?

Mr. HARRIMAN. Ah, that is another question.

Mr. SHANLEY. Do you think that the Government can extend it through the Federal Reserve System under the new act?

Mr. HARRIMAN. I think so. I don't understand that the Federal Reserve System undertakes to prohibit banks from making loans. What it does is this: It recognizes certain kinds of loans as eligible for rediscount.

Mr. SHANLEY. Isn't the Federal Reserve so tied with the Government that the Government itself is virtually loaning the money?

Mr. HARRIMAN. If the First National Bank of New York chooses to lend money to Italy today, I don't think the Federal Reserve System ties the Government up with them.

Mr. SHANLEY. The criticism has been that the Federal Reserve System is so tied in with our National Government and so subject to its control that we are violating that fundamental principle of international law that the sovereign as a sovereign cannot make loans. I cannot see how you can look through the Federal Reserve and not see the Government itself, particularly with the amendments that we made in the last session.

Mr. HARRIMAN. I confess that I have not examined with sufficient care the relation of the Federal Reserve Board to the latest amendment to give an opinion on that.

Mr. SHANLEY. You think it is worthy of examination?

Mr. HARRIMAN. I think so, certainly, but that is a subject on which I cannot speak accurately.

Mr. GILLETTE. Mr. Chairman, I want to ask one more question of the doctor, and I want to make a preliminary statement. You stated a moment ago that you believed that your preference would be that nothing, no action, be taken at the present time.

Mr. HARRIMAN. Yes, sir.

Mr. GILLETTE. You also earlier in your statement expressed an opinion, which was shared by Dr. Borchard, yesterday, and it is most certainly not shared by myself, that with the condition as it existed as to our policy we became involved in the World War through the bungling or failure to assert rights—"bungling" is Dr. Borchard's word; "failure to assert rights" is your expression—of our State Department.

Now, do you not believe that it would be better to take some definite action at the present time for delineating or outlining of policy, rather than to anticipate, as you gentlemen apparently do, the "bungling" of the State Department in handling our rights?

Mr. HARRIMAN. No; I do not think it was "bungling" on the part of the State Department.

Mr. GILLETTE. That was Dr. Borchard's word himself.

Mr. HARRIMAN. Yes. I think that perhaps is not the expression. Secretary Lansing could hardly be accused of bungling, because he was writing notes all the time protesting against British interference with our trade. But our ambassador in London, Walter Hines Page, had such strong sympathy with the British cause that he was trying to persuade Earl Grey, the Foreign Secretary, that Lansing's notes did not mean anything. We suffered from our ambassador in London and also from the general public sympathy, which was not really neutral.

Mr. GILLETTE. Might I direct your attention to my question, which I don't believe you have answered, as to the advisability of taking

some action definitely outlining a neutrality policy that would be effective?

Mr. HARRIMAN. I don't think it would be advisable; no.

Mr. SHANLEY. Under that method then it took an ambassador to bungle the situation while the State Department was doing good work?

Mr. HARRIMAN. Yes. I have no criticism of the State Department. Robert Lansing was continually attempting to protect our rights, but he didn't have sufficient popular backing perhaps to enable him to secure results, because there was a great deal of popular sentiment with the Allies.

Mr. SHANLEY. You recall the famous dispatch that came over from America and Ambassador Page said to Sir Edward Grey, "I have now read the dispatch protest against England's conduct against our trade"; I don't agree with it; let us consider how it should be answered."

Mr. HARRIMAN. Yes.

Mr. SHANLEY. So you really believe that it is our ambassador who has more to do with it than the State Department?

Mr. HARRIMAN. I should not generalize. It was so in this particular case.

Mrs. ROGERS. Do you not believe, Colonel Harriman, that, by and large, a man trained in foreign service would be less influenced in that way than a political appointee like former Ambassador Page?

Mr. HARRIMAN. Yes; I do.

Mr. RICHARDS. Doctor, you are against any kind of new legislation at this time, I understand, and certainly against an embargo on exports. An embargo would make it mandatory. If we had an embargo what would we put in that embargo?

Mr. HARRIMAN. I should limit it to the present law.

Mr. RICHARDS. What are you talking about, munitions of war?

Mr. HARRIMAN. Yes, sir. I don't see any reason for going beyond that.

The CHAIRMAN. Any further questions of the Doctor? Doctor, we are very much obliged to you, sir. Mr. Kopplemann is here now, but I don't know whether he has quite enough time.

Mr. KOPPLEMANN. I don't believe we have sufficient time now.

The CHAIRMAN. We have about three or four Congressmen that wish to come before the committee, and I want to give them an opportunity.

Mr. FISH. May I ask, Mr. Tinkham, if you heard from Mr. John Bassett Moore?

Mr. TINKHAM. I am to see Senator Johnson about getting the last letter which the Honorable John Bassett Moore wrote to him. I was not able to see him this morning, because he was in executive session.

Mr. FISH. I mean about coming here next week.

Mr. TINKHAM. No; he cannot come. But Mr. Simonds can probably come on Tuesday, and ex-Ambassador Gerard can probably come on Tuesday.

Mr. FISH. Did you agree on Ambassador Gerard or Governor Ely?

Mr. SHANLEY. I don't know whether Governor Ely can come.

Mr. FISH. Let us set aside Tuesday then for an open hearing on this.

The CHAIRMAN. One minute right there: Why can't we meet here Monday and give three or four of these Congressmen a chance to be heard.

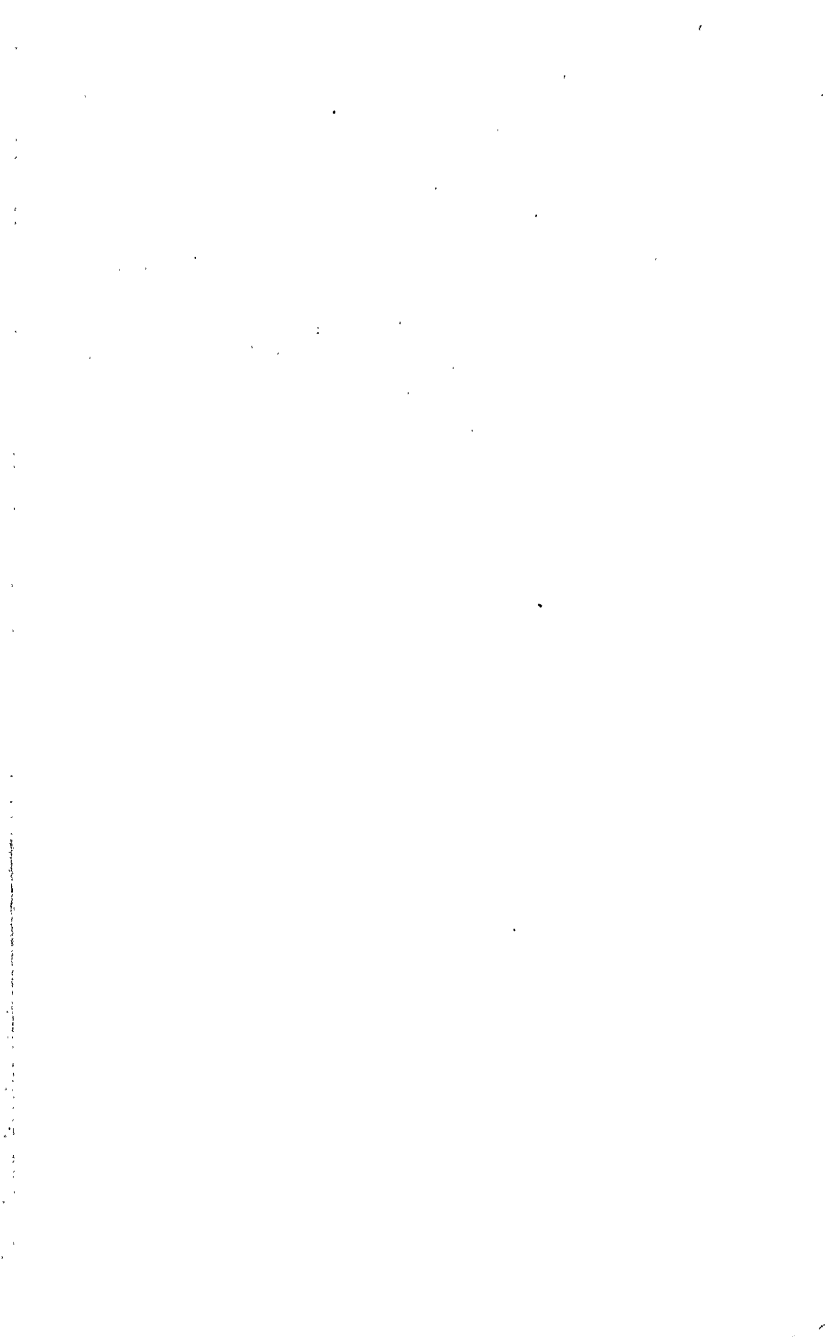
Mr. TINKHAM. Yes; and then meet Tuesday, too.

The CHAIRMAN. Yes; and we will meet Tuesday for the others.

Mr. KLOEB. Mr. Chairman, in that connection, Congressman Ludlow has introduced a bill that I believe, with due deference, that opportunity ought to be extended for hearing upon.

The CHAIRMAN. I am doing that. That is what I am doing right now. Mr. Ludlow and these other gentlemen who wish to appear before the committee are requested to be here. We will meet at 10 o'clock, and I am notifying those gentlemen that we are giving that day to Congressmen, next Monday at 10 o'clock, and Tuesday at 10 o'clock we will have the other witnesses.

(Whereupon, at 11:50 a. m., the committee adjourned until 10 a. m. Monday, Jan. 13, 1936.)



AMERICAN NEUTRALITY POLICY

MONDAY, JANUARY 13, 1936

HOUSE OF REPRESENTATIVES,
COMMITTEE ON FOREIGN AFFAIRS,
Washington, D. C.

The committee met at 10 a. m., Hon. Sam D. McReynolds (chairman) presiding.

The CHAIRMAN. Gentlemen, let us proceed. Mr. Lamneck, of Ohio, would like to be heard briefly. We should be glad to hear you at this time, Mr. Lamneck.

STATEMENT OF ARTHUR P. LAMNECK, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OHIO

MR. LAMNECK. Mr. Chairman and members of the committee:

I know you have a very difficult problem here in trying to write a satisfactory neutrality law; one that will accomplish the purpose that the people of this country want, and that is to keep us out of war.

I have no suggestions as to what should go into this bill, but one thing I do want to impress upon your minds, that I think the people of my district want, and that is whatever the bill is, it shall be specific in its provisions, it shall be absolutely mandatory, and that no delegated powers be contained in the bill at all. I think the time has come when we must get away from delegated power in this country.

I remember an experience we had with the Home Owners Loan Act where, by regulation, they actually rewrote the law that Congress passed, and it was not the same law at all after it got into operation.

The only thought I wanted to impress upon your minds is that as far as I am concerned, and as far as my district is concerned, we want a mandatory bill, whatever is in it.

I realize that it is a very difficult task and that when you try to do certain things you run up against certain obstacles.

MR. CALDWELL. May I ask you a question? What do you mean by a mandatory bill?

MR. LAMNECK. We want a bill that will be specific in its provisions; and that all provisions of the bill—be written into the law.

MR. CALDWELL. If you provide an embargo on arms, who will declare the embargo?

MR. LAMNECK. I suppose the President will declare it.

MR. CALDWELL. Upon whose judgment?

MR. LAMNECK. Upon whose judgment?

Mr. CALDWELL. Yes.

Mr. LAMNECK. If you had a war, it would be upon the judgment of—

Mr. CALDWELL. Who would decide whether there is a war or not?

Mr. LAMNECK. Well, you might have a state of war—any two nations that are in conflict, trying to kill each other, a state of war would exist at that time.

Mr. CALDWELL. But some one would have to determine that a state of war exists.

Mr. LAMNECK. Yes.

Mr. CALDWELL. Then it cannot be mandatory and specific in its provisions, can it?

Mr. LAMNECK. Well, I am not so sure about that.

That is drawing a very fine point. What I want to say is that whenever you say that such and such a condition is a state of war, the President of the United States shall immediately declare our neutrality and our position based upon that law. Whatever you say in that law, I want to make the foundation upon which he is to declare that situation.

Mr. CALDWELL. The point that I was trying to make is that there must, of necessity, be some discretion granted in this bill. That is what I was trying to impress upon you.

Mr. LAMNECK. Well, I would have very little, if any; I would not have any that I did not have to have.

Mr. JOHNSON. If the gentleman had heard the testimony taken before this committee, he would have heard different views expressed concerning this bill. Everyone, like the gentleman, sincerely believes in legislation that will keep us out of war. But sometimes the ideas that we form, without hearing all of the evidence presented, are not very practical. We find that we have to revise our opinions. If the gentleman could read some of the testimony that we have had with reference to some of the features of the bill—

Mr. LAMNECK. I have not had the opportunity.

Mr. JOHNSON (continuing). He would realize the difficulty of writing an ironclad law that would apply to all conditions that might arise in the future.

Mr. LAMNECK. You take the time during the Wilson administration: President Wilson was elected on a platform of keeping us out of war. He was the prime mover, in my judgment, in getting us into war. That is my opinion.

Mr. JOHNSON. The gentleman's opinion on that, and mine, are different. I think we would have gotten into the war long before if it had not been for President Wilson. I think he was the one man who kept us out as long as we kept out.

Have you read the book, *The Road to War*, recently published?

Mr. LAMNECK. No; I have not.

Mr. JOHNSON. You will find this, that although the author was hostile to Woodrow Wilson, evidently did not admire him very much, his opinion was that Wilson was the one man who kept us out of war longer than any one else would have; that we were pushed into it.

The CHAIRMAN. May I ask the gentleman a question? Mr. Lamneck, would you declare an embargo on those things that are used in war, materials such as coal, copper, oil, and cotton?

Mr. LAMNECK. As I said in my opening statement, I am not here to suggest what should go into the bill. But if it went into the bill, whatever went into the bill, it is my judgment that should be the basis on which we should act.

The CHAIRMAN. There is one further thing I should like to ask you. In this bill we provide that the President shall select those things that he thinks are necessary to be used in a war and place an embargo on them over and above the normal trade in those articles. Now, you say you want that provision mandatory.

Mr. LAMNECK. Yes.

The CHAIRMAN. Do you mean to say that you would undertake to name all those articles, in the bill? No bill presented to the committee has undertaken to do that.

Mr. LAMNECK. I might go so far as to say, when two nations are at war, I would not do any business with them at all.

Mr. STANLEY. You say you might go so far as to say that. Would you go that far?

Mr. LAMNECK. I am not so sure; if it were necessary to do that I would.

Mr. SHANLEY. Do you think it is necessary?

Mr. LAMNECK. If we furnish merchandise by carrying it on our own ships I think it is bad; if we can say to them that they can come in here and get it, I do not think it is.

The CHAIRMAN. In other words, it will be all right if they came here and got it. Do you think that would be a neutral act?

Mr. LAMNECK. What is that?

The CHAIRMAN. Do you think it would be a neutral act if we provided that they could come here and get it? It would be a situation comparable to one where two men were fighting and I were to say to one of them, "I have a pistol over in my room, if you want it, you can come over and get it, if you pay for it. I will sell it to you, then you can go over and shoot your opponent." That is what you have in mind, is it?

Mr. LAMNECK. As I say, I am not telling you gentlemen what to write into the bill. But I would say that the only thing we could do, in my opinion, is either to have a complete embargo on everything or—

The CHAIRMAN (interposing). Do you not think, if you had a complete embargo on everything, that you would have such a revolt in this country that we would have war here instead of somewhere else?

Mr. LAMNECK. I do not know; the people of this country do not want any war. The way to stay out of war is to stay out of Europe.

The CHAIRMAN. Do you think we could pass any neutrality bill that would keep us out of war?

Mr. LAMNECK. Yes; I think you could.

The CHAIRMAN. Suppose in your mandatory provision you included oil. If you named any of the materials of war you would have to name oil. What would be the result?

Mr. LAMNECK. I know that I have had delegations waiting on me who do not want that.

The CHAIRMAN. But if we named these articles and made the provision mandatory, what would result? You would have a war in Europe and we would be responsible for it.

Mr. LAMNECK. Well, I am not so sure.

The CHAIRMAN. Premier Laval said in the French Chamber of Deputies that he was waiting to see if the United States Congress would not come to the rescue; if we stopped the shipment of oil, Italy would certainly take the position that we were responsible.

Now, what do you think about making that provision mandatory?

Mr. TINKHAM. Mr. Chairman—

The CHAIRMAN. I was not asking the gentleman from Massachusetts the question; may I suggest that the witness be allowed to answer?

Mr. TINKHAM. Of course.

Mr. LAMNECK. I say now, as I said in the beginning, I do not want to tell the committee what to put in the bill. But whatever is put in, it ought to be mandatory. When we read the law we want to know what the provisions are, and we do not want it left to some individual to determine what the law is 6 months from now.

The CHAIRMAN. We are trying to accomplish the same purpose you have in mind, and that is to keep us out of war.

Mr. LAMNECK. I know that my people do not want war.

The CHAIRMAN. I know we do not want war. We can start with that as a basis. But this is the most difficult bill that has ever been before this committee for study and consideration, or any other committee for that matter.

Mr. LAMNECK. As I said in the beginning, you have a very difficult job. I can see all sorts of complications in trying to write a neutrality bill.

Mr. JOHNSON. Of course, it is easy to criticize, but it is not easy to suggest constructive criticism. That is true of any legislation and particularly this legislation.

The CHAIRMAN. We are trying to reach the same end.

Mr. LAMNECK. That is all I have to say, ladies and gentlemen.

Mr. TINKHAM. Mr. Chairman, I should like to ask the gentleman a question. Let us take the bill in relation to two points. I refer now to section 3, "Export of arms, ammunition, and implements of war."

That section reads:

Upon the outbreak or during the progress of any war * * *

Do you not believe that it would be more in accordance with your theory that the embargo should be put on at the outbreak of the war and not delayed until such time as the administration wants to put the embargo on?

Mr. LAMNECK. I should say that it ought to be put on immediately.

Mr. TINKHAM. Immediately?

Mr. LAMNECK. Yes.

The CHAIRMAN. If anyone has put that construction on that provision except Mr. Tinkham I do not know who he is.

Mr. TINKHAM. The language is perfectly plain.

The CHAIRMAN. Let me ask you at this point, Can you tell, under modern conditions of warfare, when a war has started?

Mr. LAMNECK. I could tell when the Ethiopian-Italian war started.

The CHAIRMAN. When did it start?

Mr. LAMNECK. When they started to move troops over to Ethiopia. The CHAIRMAN. Is that when it started?

Mr. LAMNECK. Yes.

Mr. CALDWELL. When did the war between Great Britain and Italy start?

Mr. LAMNECK. Between whom?

Mr. CALDWELL. Between Great Britain and Italy.

Mr. LAMNECK. I do not think it started.

Mr. CALDWELL. Why? Did it not start when Great Britain moved ships into the Mediterranean?

Mr. LAMNECK. Because Italy went over there with the design of taking Ethiopia.

Mr. CALDWELL. For what purpose did Great Britain go into the Mediterranean.

Mr. LAMNECK. To protect her own interests; to see that she was not going to be molested.

Mr. CALDWELL. Did not Italy specifically say that that was her purpose in moving troops into Ethiopia, to protect Italy's interests?

Mr. LAMNECK. I do not know what they said; I did not read what they said.

Mr. TINKHAM. There is now no war in the Mediterranean between Italy and Great Britain; but if Great Britain were to fire at some Italian ship, or if either side should commit some hostile act, war between Great Britain and Italy would be a fact.

Mr. CALDWELL. Then the movement of troops into Ethiopia did not constitute war, did it?

Mr. TINKHAM. Between England and Italy? No.

Mr. CALDWELL. I can see a great divergence of opinion between the two gentlemen here.

Mr. SHANLEY. The Kopplemann bill attempts to give a definition of the outbreak of war. I want to say that in international law, in at least seven or eight instances, they have generalized as to when war occurred. The Kopplemann bill says that the movement of troops from one territory to another constitutes an outbreak of war. That is the first attempt to define it in any of the bills that I have seen or in any of the statements in the press.

What do you think would be a definition of "the outbreak of war?"

Mr. LAMNECK. In the case of Ethiopia and Italy, Italy was promised Ethiopia in 1915 by a treaty between France and England. Is not that a fact?

Mr. SHANLEY. Yes.

Mr. LAMNECK. As her part, for going into the World War. In January 1935 there was another treaty made with France in which France said she would not molest Italy if she went into Ethiopia and took it.

Mr. SHANLEY. That is true.

Mr. LAMNECK. Now, the minute Italy took her Army over there, I think anybody will admit she was going over there to take Ethiopia.

Mr. SHANLEY. But you are sidetracking me a little. I did not want to go into the merits of that war. All I wanted to indicate to you was how difficult it is for us or anybody to know when there

is an outbreak of war. You ask for a mandatory provision in the bill. Most of us want to have mandatory provisions. We do not want to allow too much discretion. We are probably with you there, but let me try to show you how difficult it is to make provisions like these mandatory.

The very beginning of this bill talks about the outbreak of war. The difficulty of determining when there has been an outbreak of war is that sometimes we do not even know there is a war until ships are brought into prize courts, for a judicial determination by a prize court.

During the World War there was a partial mobilization on the Austrian border which induced the Russians to believe that there had been a full mobilization prior to that—that is, a mobilization by the Austrians—which we know is not the fact. War was declared by Germany when she saw Russia fully mobilized and Russia would not stop. All of those factors led up to the war. It is almost impossible to write a state of facts into a bill and say to the President that on that state of facts an outbreak of war occurs. All we can say to the President is, if there is an outbreak of war and so forth, there shall be an embargo.

That is why this bill is so difficult to write.

Mr. LAMNECK. Well, I am saying it is difficult.

Mr. KLOEB. Technically, a state of war now exists between all the members of the League of Nations and Italy, under that covenant.

Mr. SHANLEY. Under a strict interpretation of article XVI. The League did declare Italy an aggressor on October 11, 1935.

Mr. KLOEB. Yes. If we determine that when a state of war exists between certain countries, automatically these mandatory provisions embargo the shipment of munitions and prevent loans and credits and establish quotas on commodities, then they should be in effect with all countries of the world and our trade curtailed accordingly; that is, all the countries that belong to the League of Nations.

You see how difficult it is for us to get at the proposition?

Mr. LAMNECK. Yes.

Mr. SHANLEY. What is a belligerent? You might ask that question, too.

Mr. LAMNECK. You will have to define it, gentlemen.

Mr. JOHNSON. That is our job, is it?

The CHAIRMAN. We will try to write the kind of a bill you want, as nearly as we can.

Mr. LAMNECK. Thank you.

Mr. GRAY. May I ask a question? I just came in and I regret that I did not hear the beginning of your remarks. I am with the gentleman on the money question, but I am afraid, from what he said, that I could not agree with him on this question. Are you taking the position that, on account of the agreement between these nations Italy could go over and take Ethiopia and that she has a right to do it?

Mr. LAMNECK. I did not say that. I was just stating a fact; that is all.

Mr. GRAY. What is that?

Mr. LAMNECK. I am just stating a fact, that is all.

Mr. GRAY. Did that have any approval or sanction of Ethiopia at that time?

Mr. LAMNECK. Not at all.

Mr. GRAY. Did that give Italy any grounds whatever to go over and make war?

Mr. LAMNECK. Not at all.

Mr. GRAY. Then I misunderstood the gentleman. We are together on everything.

The CHAIRMAN. We are very glad to have had you here, Mr. Lamneck. I just want to say this to you. We have the same views you have on trying to keep us out of war. But we realize the very great difficulties in getting a bill that is just a straitjacket. We are trying to reach the same end, I am sure. We have been working, and working diligently. But we have one of the most difficult bills before us that we have ever had.

Mr. TINKHAM. Mr. Chairman, I should like to ask one more question on section 4, which gives complete authority to the President on the matter of an embargo on certain articles or materials incident to the manufacture of arms, ammunition, and implements of war or used in the conduct of war.

Do you believe that that should be made mandatory?

Mr. LAMNECK. I think it should.

The CHAIRMAN. What was that?

Mr. TINKHAM. I asked the gentleman whether the section concerning the President's right, in the bill you have introduced—section 4—to withhold putting on an embargo or to put it on at his will, on certain articles or materials used in the manufacture of arms, ammunition, or implements of war, or in the conduct of war, should be made mandatory, and the gentleman says that he is opposed to giving that discretionary right to the President.

Mr. BLOOM. You have not quoted it correctly, Mr. Tinkham.

The CHAIRMAN. You did not quote it correctly, Mr. Tinkham.

Mr. BLOOM. That is what I have just pointed out to the gentleman; you have not quoted either the bill or the witness correctly.

Mr. TINKHAM. I do not understand.

Mr. BLOOM. You have not quoted the witness correctly, and you have not quoted the paragraph in the bill correctly.

Mr. TINKHAM. I just read it from the text.

The CHAIRMAN. No; you did not state it correctly.

Mr. TINKHAM. Then I will read the whole text, to be exact.

The CHAIRMAN. All right.

Mr. TINKHAM (reading):

Section 4 (a): Whenever, during any war in which the United States is neutral, the President shall find that the placing of restrictions on the shipment from the United States to belligerent countries of certain articles or materials used in the manufacture of arms, ammunition, or implements of war, or in the conduct of war, * * *

Of course, that includes oil, steel, and all other materials.

Mr. LAMNECK. Food or anything else.

Mr. TINKHAM. This section gives the President the option of putting on an embargo or of not putting on an embargo; also, as to when to put on an embargo.

Mr. LAMNECK. I think we ought to tell him when to put it on.

Mr. TINKHAM. Exactly. That is what I thought you said.

The CHAIRMAN. Will you tell us what commodities you would mention, and will you tell us just when the embargo is to be put on?

It is easy enough to make these statements, but it is much more difficult to draft the language to put in a bill. What commodities would you name in the bill?

Mr. LAMNECK. I am not telling the committee what commodities, but whatever I put in, it would be mandatory and he would do it when I told him to do it, according to the law.

Mr. CALDWELL. When would you tell him to do it?

Mr. LAMNECK. I would define when a state of war exists.

Mr. BLOOM. When does a state of war exist?

Mr. LAMNECK. It is a great question when it exists, but write it in the bill; write your own provisions into the bill.

The CHAIRMAN. As to when it exists?

Mr. LAMNECK. What your idea is as to when a state of war exists and when it starts, and let that be the basis for action.

Mr. TINKHAM. We cannot do that.

Mr. GILLETTE. And in addition a list of the articles to be embargoed?

Mr. LAMNECK. I am not telling you what to put into the bill, gentlemen. What I said originally was, whatever you put in the bill, make it mandatory.

Mr. GILLETTE. How are we going to make it mandatory? If we are to make it mandatory to embargo articles used in the conduct of war, how can we make it mandatory unless we list the articles?

Mr. LAMNECK. I am not saying you can do it.

Mr. GILLETTE. The discretion has to be lodged somewhere, or else we have to define it.

Mr. LAMNECK. If you want to list the articles, it is all right with me.

Mr. GILLETTE. I am asking you the question; what is your idea on that? You say you want it mandatory.

Mr. CALDWELL. Either you would have to list them or it could not be mandatory; is not that so?

Mr. LAMNECK. I think that is true.

Mrs. ROGERS. You feel, do you not, that it would be too easy for the President perhaps to yield to pressure or to temptation, and we would not know anything about it perhaps for years afterwards. That was brought out in the Senate investigation which you are probably following. Anything that was done in that way was done by the President. When pressure is brought to bear upon the Members of Congress, 435 of us, the entire country knows it. I thank you very much, Mr. Chairman.

Mr. LAMNECK. I agree with that statement.

Mr. GRAY. Just one question. Would you describe in the bill the state of facts which would constitute a state of war? Would you describe in the bill that state of facts and say whenever those facts existed, it should be taken as a state of war?

Mr. LAMNECK. If it were possible to do that, I would. As I say, you have great difficulty to determine just when a war starts, I know that. I can see that you have a very difficult problem.

Mr. GRAY. There has been no declaration of war yet, so far as Ethiopia is concerned, has there?

Mr. LAMNECK. No.

Mr. GRAY. What would you say about the existence of a state of war over there?

Mr. LAMNECK. I would say there was a war over there.

Mr. BLOOM. But there has been no declaration of war.

Mr. GRAY. But there is a war going on in Ethiopia.

Mr. LAMNECK. There certainly is.

Mr. CALDWELL. Let me ask you this question. Perhaps you noticed in the press a few days ago a story about some slight internal strife in Egypt between some Egyptian students and British authorities.

Mr. LAMNECK. Well, I noticed the headlines.

Mr. CALDWELL. Did a state of war exist there?

Mr. LAMNECK. I would not think so.

Mr. CALDWELL. Suppose that went further and armed conflict in Egypt actually evolved. Would you then have the provision of this bill mandatory and require the President to place an embargo, mandatorily, upon munitions of war and materials used in the conduct of war, foodstuffs, steel products, oil and oil products, machinery of all kinds; do you believe we ought to completely stop trade with Great Britain in that event?

Mr. LAMNECK. I would stop the trade with Great Britain and Egypt if there was a state of war existing; yes.

Mr. TINKHAM. Mr. Chairman, let us keep close to the bill. It says, "Upon the outbreak" of war. The outbreak of war must be accompanied by a hostile act. The President has authority to declare that a state of war exists and to declare an embargo. Of course, the outbreak of war must involve the occurrence of a hostile act.

Mr. JOHNSON. That is a very flexible term, Mr. Tinkham.

Mr. TINKHAM. Yes; but common sense will tell any President when there is a real armed conflict or an outbreak of war.

The CHAIRMAN. That is the way to determine whether a war is going on between Italy and Ethiopia.

Mr. TINKHAM. Yes.

Mr. KLOEB. Does the gentleman consider that a state of war now exists between China and Japan?

The CHAIRMAN. If so, when did it begin?

Mr. KLOEB. Yes; when did it begin, and when would you make this law operative?

Mr. BLOOM. Or, has it ever existed?

Mr. TINKHAM. I should leave discretion to the President so far as determining when the outbreak of war occurred. I think the words "upon the outbreak of war"—giving the President the flexible authority to declare when war has broken out, are very proper because we cannot define what would constitute a state of war in each case.

Mr. CALDWELL. Then you agree that a certain amount of discretion must be given.

Mr. TINKHAM. So far as that point is concerned, yes.

Mr. GRAY. Will the gentleman specifically define a hostile act, so we will understand that?

Mr. TINKHAM. I can give you illustrations of it.

Mr. GRAY. No; define it. I want a definition of it.

Mr. TINKHAM. I can give an illustration. That is the best definition.

The CHAIRMAN. Gentlemen, we can discuss that later in the committee. If there are no further questions of Mr. Lamneck, we thank you for your statement.

We shall be pleased to hear Mr. Kopplemann at this point. Mr. Kopplemann has introduced a bill.

STATEMENT OF HON. HERMAN P. KOPPLEMANN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CONNECTICUT

Mr. KOPPLEMANN. Mr. Chairman, may I ask the indulgence of the committee to refrain from asking questions until I have concluded my formal statement?

The CHAIRMAN. Yes. Gentlemen, I wish the committee would refrain from asking questions until Mr. Kopplemann has concluded. I am sure he will be glad to answer any questions that are asked at the conclusion of his statement.

Mr. KOPPLEMANN. Mr. Chairman and gentlemen.

My desire to promote the cause of neutrality and peace impels my appearance here today.

On January 3, the first day of this session, I introduced a bill known as H. R. 9482, which deals with the question of American neutrality. I have also carefully read and studied the measure introduced by the chairman of this Honorable Body, Mr. McReynolds, known as House Joint Resolution 422.

I think Mr. McReynolds' bill goes a long way toward carrying us to our goal of neutrality. It is most heartening to know that your chairman is working side by side with you strongly advocating measures which will insure peace to the American people and offering definite suggestions as to how it can be accomplished.

I am not here to present my measure to your attention through some pride of authorship. Such a motive is insignificant compared to my desire to cooperate in a great cause and necessary work. I do think my bill is a good one and I urge its very serious study and earnest consideration by this committee when you meet in executive session.

For months, in fact over a period of a great many years, the question of how America might secure peace for herself and sometime, in the not too distant future, peace for the world has concerned me deeply. I have spent much time studying how this may be done.

The goal of real neutrality can be reached to a certain degree by some of the provisions of the measure introduced by Mr. McReynolds. I think there are certain provisions in my own measure which, substituting for, and amplifying some of the provisions in House Joint Resolution 422, will contribute toward that goal.

I want it clearly understood that I am not opposed to any bill which has neutrality for its purpose. In saying this, I have also in mind the measure being sponsored by my good friend, Mr. Maverick, of Texas, whose bill is also before you for consideration.

The goal is the thing which counts, and I repeat my readiness to cooperate in its successful attainment.

Neutrality bills have been introduced in practically every session of Congress. In the past neutrality legislation has been adopted, but when the moment came when neutrality was most needed, the

legislation failed to do what it was expected to do. Somehow the loopholes were left which led the way for the nullification of the neutrality laws, and we were led to war.

The way for real neutrality was paved during the closing days of the last session of this Congress. It is up to your committee to bring us to the goal for which the people of America are praying. The importance of neutrality in the present-day problems is attested to by the fact that it is among the first in the legislative program of this session. No longer is neutrality an idea which has obsessed certain dreamers who long for accord among all nations. It is fast on its way to becoming an established fact.

In general there is a similarity in the basic philosophies of Mr. McReynolds' bill, Mr. Mavericks' bill, and of my own. Yet, there are certain fundamental differences which invite comparison.

In the first place, I have added poisonous gases to the products to be mandatorily excluded from exportation. I believe this committee will readily appreciate with me the humane considerations which place poisonous gases on a par with arms, ammunitions, and implements of war. I am certain that the prohibition of their export will be provided in the final draft of the neutrality bill reported by your committee.

The CHAIRMAN. May I correct your statement about poison gases? We have that in the bill, even in peacetime. That obtains not only during war but all the time.

Mr. KOPPLEMANN. It is in the bill?

The CHAIRMAN. That is taken care of in connection with chemical warfare.

Mr. BLOOM. On page 14.

Mr. KOPPLEMANN. I did not know that. My bill places poison gases as a war munition. Your bill places it under the license provisions. A license for chemical appliances would not be taken away for 90 days following effective date of the Neutrality Act. According to my bill wherever arms, ammunitions, and implements of war would be prohibited from export, poison gases would also be prohibited. Provisions elsewhere in the bill applying to arms, ammunitions, and implements of war would also apply to poison gases.

My bill seeks a more complete insulation from the economic factors which might tend to create conflict between the United States and nations which should happen to be at war. I point out section 2 (a), paragraph 1, in my bill, which states that the President shall ban exports of war materials to all belligerents. Such action would be taken when and if the President proclaims, under the provisions of my bill, such goods as may be war materials. Thus we establish a complete embargo on war materials, treating every nation alike, leaving no opportunity to play favorites. But House Joint Resolution 422, on the other hand, seeks only to curb the exports of such war materials to belligerents over and above the quota equivalent to the normal peacetime amount of exports of such goods.

The CHAIRMAN. Not as to arms, ammunitions, or implements of war.

Mr. BLOOM. It is mandatory there.

Mr. KOPPLEMANN. I agree with you that your bill does not, as to arms, but I am speaking more specifically of war materials, that the President may proclaim—

The CHAIRMAN. That is correct.

Mr. KOPPLEMANN. That is what I am referring to.

Mr. MARTIN. You want to give the President authority to designate these commodities?

Mr. KOPPLEMANN. Let us not discuss, Mr. Congressman, the question of authority to the President until I am through with my statement. I have some definite things to say on that point and then we can bring that up.

Mr. MARTIN. I am very glad to wait.

Mr. KOPPLEMANN. I believe there should be no concession in materials which are found to be and are listed as war materials. Their proclamation as such places them in a category similar to actual arms, ammunitions, implements of war, and poison gases, and if a complete embargo is placed on those products, it should also apply to products which are listed as definitely contributing to the conduct of war.

The latitude in House Joint Resolution 422, with relation to quotas for secondary war materials leaves open an avenue of further difficulty. For example, suppose Japan and Russia were to go to war. Knowing Japan's supremacy over Russia on the sea, it is very plain to me that if a quota were established for both belligerents, Japan having naval superiority over Russia, could obtain her quota of supplies, and prevent Russia from securing hers. Russia thus would be unable to secure supplies in spite of the quota permitted her. The result would be, of course, that Russia would take offense at our neutrality laws and might at some future time attempt reprisals against us which would tend to war.

I seek to avoid this danger, the possibilities of which are very evident to me, in still another provision in my bill. Beginning on page 3, line 23, my bill makes it unlawful for any American vessel to carry any articles or commodities to or for the use of any belligerents whether directly or indirectly. In other words, nations purchasing goods from us, regardless of their nature so long as they are permitted, for the use of belligerent nations whether directly or indirectly, must send their ships to our shores to procure the goods and pay for them here. In other words, my bill sets up a cash and carry system during the period a war is in progress.

Mr. MARTIN. How would that be? In case of war between Japan and Russia, Russia would not get any goods under your plan.

Mr. KOPPLEMANN. Neither of them would get any goods. It would be fair to both of them.

Mr. MARTIN. I do not agree with the gentleman. Could not Japan send her ships here and get these goods, if they have a superiority on the seas?

Mr. KOPPLEMANN. If Japan has the superiority on the seas and she requires these goods, for war materials, under the quota system, and Russia does not get them, then we are not a neutral country under our neutrality law.

Mr. MARTIN. But would not that happen?

Mr. KOPPLEMANN. No. Under the bill that I have presented, that would not happen.

Mr. MARTIN. Under your cash-and-carry plan it would happen; it could not be otherwise.

Mr. KOPPLEMANN. No; you misunderstand me.

Mr. MARTIN. I do not think so.

Mr. KLOEB. The strongest navy would dominate the sea.

Mr. MARTIN. And Japan has the Navy and superiority on the seas, and Japan has the ships to come to America and get the goods.

Mr. BLOOM. That is the case at the present time.

Mr. KOPPLEMANN. She would not get any.

Mr. BLOOM. But Italy would, would she not?

Mr. KOPPLEMANN. I want that point made very clear.

Mr. MARTIN. The gentleman is setting up a premise that the bill would accomplish one thing and that his bill would accomplish something else, which he criticizes the Chairman's bill for not accomplishing.

Mr. KOPPLEMANN. No; you misunderstand me.

The CHAIRMAN. We understood you to state a few moments ago, Mr. Kopplemann, that if you permit shipments over and above normal trade, in case of war between Japan and Russia, Japan having control of the seas, could come here and get her needs fulfilled while Russia could not. You made that statement, did you not?

Mr. KOPPLEMANN. Yes.

The CHAIRMAN. Now you say further that your cash-and-carry plan would provide for letting them come here and pay for it and take it back. Now Mr. Martin has asked you, if that be true, under the same conditions you have described, Japan would come over here, get her goods, all she wanted, pay for them, go back, and nobody would bother her at all. What about that? That is what the gentleman is asking you about.

Mr. KOPPLEMANN. Suppose I read this to you as I have it here. I understand your point very clearly, and I think my statement answers it.

The latitude in House Joint Resolution 422, with relation to quotas for secondary war materials leaves open an avenue of further difficulty. For example, suppose Japan and Russia were to go to war. Knowing Japan's supremacy over Russia on the sea, it is very plain to me that if a quota were established for both belligerents, Japan having naval superiority over Russia, could obtain her quota of supplies, and prevent Russia from securing hers. Russia thus would be unable to secure supplies in spite of the quota permitted her. The result would, of course, be that Russia would take offense at our neutrality laws and might at some future time attempt reprisals against us which would tend to war.

I seek to avoid this danger, the possibilities of which are very evident to me, in still another provision in my bill. Beginning on page 8, line 28, my bill makes it unlawful for any American vessel to carry any articles or commodities to or for the use of any belligerents whether directly or indirectly. In other words, nations purchasing goods from us, regardless of their nature so long as they are permitted, for the use of belligerent nations, whether directly or indirectly, must send their ships to our shores to procure the goods and pay for them here. In other words, my bill sets up a cash-and-carry system during the period a war is in progress.

Now, that is my statement with reference to that, and as to the inability of a nation to send its ships to procure these goods, the answer to that is very simple. There are other nations that are also neutrals who can provide for it under the cash-and-carry system. But the danger for this Nation, which my bill seeks to avoid, is partially avoided in House Joint Resolution—

The CHAIRMAN (interposing). You mean that they will get their goods regardless where they come from, is that it?

Mr. KOPPLEMANN. No. But my point is that under the provisions of my bill American ships cannot expose themselves to danger with the consequent danger to this nation by carrying American goods for the use of belligerent countries in war zones.

The CHAIRMAN. You said that other neutral nations could furnish these people who could come over and get the goods.

Mr. KOPPLEMANN. That is under the quota system, where they are permitted to buy them.

Mr. MARTIN. Yours is a distinction without a difference.

Mr. KOPPLEMANN. That may be your conclusion.

Mr. MARTIN. It is.

Mr. KOPPLEMANN. The dangers for this Nation which my bill seeks to avoid are only partially avoided in House Joint Resolution 422. Section 7 (a) of Mr. McReynolds' measure, would make it unlawful for any American vessel to carry arms, ammunitions, and implements of war to any belligerent country or to any neutral country for transshipment, but the carrying of war materials under quota restrictions is left to the discretion of the President. There is nothing in the clause prohibiting American vessels from carrying war materials, or goods used in the conduct of a war to the nations purchasing them from us under the quota regulations.

Even at the risk of appearing repetitious, I want to emphasize this point. My bill makes it impossible for American ships to enter into any war zones regardless of the cargo carried, while Mr. McReynolds' bill limits that prohibition to the carrying of arms, ammunition, and implements of war.

Mr. KLOEB. Coming to your defense, Mr. Kopplemann, is not that the distinction between the cash-and-carry system and the quota proposal? You save the necessity of American ships going into belligerent waters.

Mr. KOPPLEMANN. That is the purpose entirely, to keep our ships out, as I have already stated.

Mr. MARTIN. But the other country would get the goods just the same, only it would be in some other country's ships.

Mr. KOPPLEMANN. I want to get as near 100 percent to a neutral measure as is possible, regardless what may happen to other nations, in this bill of mine. I want to get a neutrality bill which keeps America at peace.

Mr. MARTIN. You have got to realize the results as well as obtain neutrality.

Mr. KOPPLEMANN. That is correct; we want to be fair.

I cannot conceive of a neutrality bill without the provision contained in section 2 (b) of my bill, making it mandatorily prohibitive for American vessels to carry goods for belligerent use. The failure in the McReynolds bill to apply this prohibition leaves open an avenue of possible conflict, in case the President under the terms of that bill did not specify that prohibition.

There is no question in my mind, that in the event of war abroad, if there is shipment of war materials even within the quota limits on American vessels in war zones, the vessels are liable to be sunk or seized by belligerent vessels, or attacked by belligerent airplanes.

Such occurrences would be in direct line with the experiences in the World War from 1914 to 1917.

It seems imperative to me that we provide in the neutrality bill so that we avoid the resultant conflicts which are unquestionably inevitable under such circumstances.

I feel that we ought to insure the highest possible degree of protection against difficulty of this sort, and that we will find ourselves much better able to do so under the terms as expressed in my bill.

I should like to call your attention also to the paragraph on page 4 of my bill, lines 20 to 23, inclusive, whereby I would make it unlawful to transfer the registry of any American vessel to that of any foreign country without the approval of the United States Shipping Board. This provision is not included in House Joint Resolution 422. I also urge this provision because it would be more neutral on our part than to permit such transference to take place, excepting with the approval of the United States through its shipping board.

The CHAIRMAN. That is already in the law.

Mr. KOPPLEMAN. I am glad to hear it. I did not see it in the new bill.

The CHAIRMAN. It is not in the bill, but it is the law now.

Mr. KOPPLEMAN. May I respectfully call to your attention the paragraph beginning on page 4, line 24, running on page 5 through and including line 19, in my bill. In this paragraph you will note that we would establish the policy of refusing entrance or clearance from the ports of the United States of any foreign vessels which may have used the flag of the United States or any artifices or devices designed to indicate deceitfully that such vessels were American. I urge this provision and I call your attention to the lack of such a provision in House Joint Resolution 422.

The CHAIRMAN. That was in my bill at the last session, but it is not in this bill.

Mr. KOPPLEMAN. It is not in this bill?

The CHAIRMAN. No.

Mr. KOPPLEMAN. Well, I hope it will be.

In my bill the paragraph beginning on page 7, lines 1 to 18, inclusive, contain a necessary addition to section 12. of the McReynolds bill. In section 12 of Mr. McReynolds' bill the provision operates only against submarines. In my bill the restriction operates not only against submarines, but includes armed merchant ships. No one questions but that belligerent submarines should be barred from the ports of the United States. I also contend that there is no sound or equitable reason why the armed merchant ships of belligerents should be permitted privileges which are denied to submarines. The history of the 3 years preceding our entry into the World War tells us plainly that the use of our ports by the armed merchant ships of belligerent countries created just as many controversies and difficulties as were provided by the entrance of any submarines into our territorial waters.

I would also amend section 16 (b) on page 18 of House Joint Resolution 422. This provision in effect compels the United States to demand neutral rights for its own vessels upon the seas. During the World War we were supposed to have these rights, but

the history of that war is replete with incidents showing that these rights were not permitted us during the time we were neutral. Should another war come along and America would demand that this section 16 (b) be put into effect and observed by belligerents, in the event that these countries did not observe the international law, it would become necessary for us to go to war to protect our so-called rights of international law, relating to the so-called freedom of the seas.

Therefore, I am very strongly of the opinion that a neutrality bill containing this provision might instead bring us into war.

May I also call your attention to paragraph 1, page 8, lines 7 to 18, inclusive of my bill? According to this paragraph we would establish export quotas for all those articles or commodities which are not prohibited by presidential proclamation or by the neutrality bill itself. Such export quotas would be effective on belligerents. These same quotas would also apply to neutrals if the neutral countries were found to be reshipping the articles and commodities to countries at war. The quotas would be based upon the average annual exports of each class of goods from the United States to such countries during a 10-year period starting with 1 year before the outbreak of war. I specify the 10-year period because this would give a very fair average of exports during a normal period. I bear in mind the fact that from 1930 to 1934 our exports were very low and consequently it is in all fairness necessary to go back 10 years.

Mr. KLOEB. Would such an export be a transaction? In other words, how can you close the door definitely and sharply under paragraph (h) on page 8 of your bill against any transaction of any character with any belligerent country or any person within such country, and then open the door under paragraph (i) for the shipment of quotas?

Mr. KOPPLEMANN. My intention, in my bill, is to make an exception of such things as are not used for war purposes.

Mr. KLOEB. But that is a transaction, is it not? Is not that a transaction?

Mr. KOPPLEMANN. Yes, that would be a transaction.

The CHAIRMAN. Your bill along that line is very similar to our bill.

Mr. KOPPLEMANN. I know that. I cannot write with a perfect bill any more than any one else.

The CHAIRMAN. I know; you have done very well.

Mr. KOPPLEMANN. In House Joint Resolution 422 there is no provision for the establishment of such quotas. You will recall and the records of the World War show, that many countries made heavy importations of articles which apparently had no use in the actual conduct of the war, while, as a matter of fact, such goods were used to carry on the war. For instance, a nonbelligerent country imported saccharine from us which they used as a substitute for sugar and in turn sent their sugar to belligerents. Again they would import oleomargarine, use it as a substitute for butter, and export their butter to countries at war. Again they would import leather from us. They would use paper and wood as substitutes and send the leather to the fighting nations who might use it for their armies. I could go on indefinitely giving you such examples. Because in that manner we

would be indirectly assisting in the prosecution of war, permitting such exports above a quota would jeopardize our neutrality.

Mr. CALDWELL. Will you make your proposal clear there? What do you propose to do?

Mr. KOPPLEMANN. Put them under a quota equivalent to the exports to those countries during the 10-year trade period as provided in my bill.

Mr. CALDWELL. Just whom do you have reference to when you say, "put them under a quota?"

Mr. KOPPLEMANN. Put the countries that may be belligerents, or the countries which transship to belligerents, under a quota.

Mr. CALDWELL. That would include practically all of the major nations of the world, would it not?

Mr. KOPPLEMANN. I think it would.

Mr. CALDWELL. Then your theory would be practically to cease commerce with the world in the event of war.

Mr. KOPPLEMANN. I hope not; I can see visions and perhaps realities of our being able to sell a great deal more to countries which are no longer able to buy from belligerents, who would turn to us for purchases, and that we would make up our losses to these other nations.

It is one of these matters which, as I said a moment ago, is one of your difficulties in framing a neutrality bill.

Mr. LAMBETH. May I interrupt you at this point? Do I understand you now are discussing trade in time of war with belligerents, the trade consisting of articles other than implements of war?

Mr. KOPPLEMANN. Other than implements of war or materials which may be proclaimed, under my bill, to be materials of war, by the President.

Mr. LAMBETH. And in that connection you favor that we limit our trade, to what degree?

Mr. KOPPLEMANN. To the average exports during peace time.

Mr. LAMBETH. To normal pre-war business?

Mr. KOPPLEMANN. To normal pre-war business over a period of 10 years, commencing with 1 year before the war.

Mr. LAMBETH. Now I want to ask you one or two questions, if I may.

Mr. KOPPLEMANN. I wanted to get through with this presentation, if I could.

The CHAIRMAN. Mr. Lambeth, the gentleman is trying to complete his formal statement before he submits to questioning, if the committee will be good enough to accommodate him in that respect.

Mr. LAMBETH. I beg your pardon; I heard other members asking questions, and I did not know. I came in after the gentleman had started.

Mr. KOPPLEMANN. The provision beginning in paragraph (j), page 8, line 18 of my bill would be the most direct means for the discontinuance of loans and credits for the use of belligerent governments. This paragraph is needed for complete avoidance of any financial involvements with any nation which goes to war.

Under the provisions of section 5 (a) of Mr. McReynolds' bill there are certain credit exemptions which are permitted the President. Should such exemptions be permitted they would undoubtedly lead to not only unnecessary but dangerous financial relation-

ships between American citizens and belligerent governments or their citizens.

Such a provision if permitted to remain in House Joint Resolution 422 would be in direct conflict in my opinion with the Johnson Act prohibiting loans to nations indebted to the United States.

Gentlemen, in concluding this résumé of the provisions of my bill which I especially want to call to your attention, I want to express my great confidence in our President and in his judgment. I have made my observations based upon a firm belief that no unneutral act will be committed by him, and in the light of a national demand for neutrality, no president under the provisions and powers given him in my bill would do an act of unfairness to any nation now or at some future time engaged in a war.

There are many people and groups in this country today who acting under the guise of supporting neutrality legislation are really working in an effort to defeat it. The other day I listened in on your very interesting discussion. I heard a gentleman who admitted in his argument that the people of this country demand neutrality legislation and therefore counseled a bill which if written and enacted as he desired would mean no neutrality at all.

Shortly afterward I met him in the other room and he told me that I ought to be with him. I looked at him questioningly. In the presence of others, loud enough to be heard by any one in the room, he explained that I ought to agree with him in his opinions by saying "You have in your district the Colts Patent Firearms Manufacturing Co."

To be sure, one of the largest munitions concerns in the country is located in my home city, but the people of my district made it very evident to me while I was home during the recess of Congress that they do not want war and that they look to this Congress for neutrality legislation.

I mention the meeting with this gentleman after his apparent remarks for neutrality by way of pointing out to you that many who seem to be with us are really opposed to our effort to bring about neutrality.

He thinks the fact that this great munitions concern is located in my district ought to be the strongest argument for my opposing neutrality. Of course, I want business to prosper in my district. I want to see every able-bodied person in my district honorably at work. But I cannot nor will I lend myself to any effort which will mean prosperity for the few while the rest of the Nation is laid open to all the human tragedies and economic ills which war inevitably brings. And as an aside, the thousands of workers in these munitions plants are not permitted to share proportionately in the way of increased wages or better working conditions in the increased prosperity which war business might bring to their concerns.

In your hands, gentlemen of the House Committee on Foreign Affairs, has been placed the problem and the responsibility to bring forth a measure, the importance of which cannot be overestimated. The people of America look to you for protection. Mothers and fathers depend upon you to save their sons and daughters, too, from early death on the battlefields, or from wounds, disease, and affliction which may incapacitate them for life. Nor can we stress too strongly the waste of economic resources, untold billions lost through loans,

millions impossible to compute which the Nation will pay for years to come to the soldiers in the way of compensation for disabilities received in the service and in pensions for themselves and their dependents, the devastating effects of the depression which was the final result of what we thought was prosperity during the war. The burden of all this is upon the taxpayers. A neutrality law will help lift that burden for the future.

Yours is an enviable task, however difficult. A mighty achievement lies within your power. You have my good wishes in your work and my pledge of support to the end that neutrality may be made secure for the people of America.

The CHAIRMAN. That is a very splendid statement, Mr. Kopplemann. I have read your bill carefully and there is very little difference between your bill and mine as between what you are trying to do and what we are trying to do. There are some differences in language.

You said a while ago, that you would make it unlawful to extend any loans or credits, directly or indirectly?

Mr. KOPPLEMANN. To belligerents, yes. Of course, there may be a reason for our doing it.

The CHAIRMAN. Let us go a little farther. What about the sale of these quota commodities that you are talking about? These countries always pay by draft.

Mr. KOPPLEMANN. My meaning is, that we shall not make loans, but that they should do a cash business.

The CHAIRMAN. I understand. If your bill covers that, then we are in agreement. If it does not cover it, let us change the language.

Mr. LAMBETH. Mr. Chairman, I want to ask Mr. Kopplemann one or two questions—and I do not wish to detain the committee—to verify his position. Unfortunately, I have not been able to read his bill. It was just called to my attention and I came in when the gentleman had completed the major part of his statement.

Mr. KOPPLEMANN. In the first part of my statement I asked that my bill and my statement be considered by this committee when the committee goes into executive session.

Mr. LAMBETH. I will read it before then. But I want to ask you one or two questions. If I correctly understood the argument you were making, you sum it up in this way—that you favor the surrender of our so-called neutral rights during time of war.

Mr. KOPPLEMANN. No, no. I demand our neutral rights during time of war, excepting those relating to the freedom of the seas and as stated by me heretofore.

Mr. LAMBETH. I want to ask you one further question in connection with the matter of trade. You favor putting on a drastic, mandatory quota of articles other than munitions. There seems to be no great difference about an embargo on munitions, but it seems that our greater difficulty comes in section 4, of Mr. McReynolds' bill, relative to the shipment of articles other than munitions; and in that respect you favor a very drastic, mandatory quota system; is that correct?

Mr. KOPPLEMANN. I do.

Mr. LAMBETH. Then I want to ask you this question. As a practical matter of administration, would the Government have a monopoly on the handling of those shipments, or how would you give a quota

to all the various individuals in the country who might be doing, or seeking to do, business within the limitations of your bill?

Mr. KOPPLEMANN. I notice that the first part of your question seeks my opinion, as a man of experience in administrative affairs—well, I have not had any experience—

Mr. LAMBETH. I did not make that statement. As a matter of common sense I am asking the question—

Mr. KOPPLEMANN. Then I misunderstood you. I have not any experience in the matter of doing war business during a war, and it would be impossible for me as a man of no experience to answer that question. I understood you to ask the question in that way.

Mr. LAMBETH. It is all right either way.

Mr. KOPPLEMANN. But I should say this. If you heard my statement, I said I had great confidence in the President, or in any President, in the light of the fact that the people of America demand neutrality during a war. Therefore, I have confidence that our President, or any President, would only designate such articles to be embargoed as would not be unfair to any nation. Furthermore, in the carrying out of an embargo and the designating of the things to be embargoed, and who shall sell and who shall not sell—well, this country has been pretty fair to its people as a whole and I think we can continue to be fair in the future.

Mr. LAMBETH. Just this one further question and I am through. I wish to say that I have no desire in any way to interrogate you in order to provoke a controversy, or certainly not to the point of embarrassment. But we have a very complicated situation.

Mr. KOPPLEMANN. So I said.

Mr. LAMBETH. Those of us who have sat here for a week, I think every day, realize more and more how difficult the problem is. I think we all have the same objective. We disagree as to route. But this one question in connection with this matter that I spoke about before: Will not the effect of such a policy lead to this sort of situation? If it is known by foreign governments that they cannot make purchases from us of articles that they may need in a war, will they not enter into compacts with each other, so that even during times of peace we shall be greatly disadvantaged in our foreign trade; and further, will it not actually cause them to build up their own armament manufacturing establishments to the point that they can be independent of us in every possible manner; and in the event we should become involved and need materials from those countries such as, for example, tin—with which matter this committee wrestled for some months last year—will not they feel that they might adopt the same policy toward the United States that we are proposing to adopt toward them? And we know that without tin we would be helpless and we know we have no tin.

I make that observation, and if you care to comment, all right. It is hardly a question. But it is a point of view that must be considered by all of us who have to pass on this matter.

Mr. KOPPLEMANN. The prominent part of your comment was tin. Your comment with relation to other nations ganging up on the United States—well, from time to time I read in the newspapers during times of peace and times of war, that other nations are ganging up against the United States, but they have not done it yet. I think we can take care of ourselves within our own borders pretty

well, so that no matter what other nations do, we will manage to get by.

Mr. MARTIN. I do not think the gentleman meant ganging up. Your point was—

Mr. LAMBETH. That is not what I said at all.

Mr. KOPPLEMANN. You did not use the term; no. But you said that the nations would get together, by reciprocal trade agreements, among themselves—

Mr. MARTIN. That is not what Mr. Lambeth meant at all. Did I not understand you to mean that the other countries would develop their own resources or make other agreements in preparation of a time of war, to be able to do without our products?

Mr. LAMBETH. Make compacts with other sources of supply and put us out of the picture in time of peace as well as in time of war, to the maximum degree. That is the thought I had; that is the difficulty, frankly, in my own mind, as I approach this problem, Mr. Kopplemann, whatever the bill is that we consider. When we consider the matter of quotas upon articles other than munitions, we run into many difficulties which I am sure you understand as well as I; and I do not know the answer to it, and I do not know anybody who does know. But I would like to know the answer.

Mr. KOPPLEMANN. Well, of course, one of the things which disturbs you is the matter of trade. I am more disturbed about the possibility of war. That is uppermost in my mind—not the question of trade.

Mr. LAMBETH. Well, I am disturbed there, too. I happen to have been in the last war and I know something about it. I left some of my dearest friends in France. I desire peace as earnestly and devoutly as you or anyone else.

Mr. KOPPLEMANN. Then the two of us are of one mind. I hope we are of one mind.

Mr. TINKHAM. Mr. Chairman, I would like to ask the gentleman one question. Section 4 makes the proclaiming of an embargo optional with the President.

Mr. KOPPLEMANN. Of what bill?

Mr. TINKHAM. Section 4 of Mr. McReynolds' bill, which is the principal bill before us. It says:

Whenever, during any war in which the United States is neutral, the President shall find that the placing of restrictions on the shipment from the United States to belligerent countries of certain articles or materials used in the manufacture of arms, ammunition, or implements of war, or in the conduct of war, * * *

Those are the important words. Anything used "in the conduct of war"; and nearly everything is. As to those articles under section 4 of Mr. McReynolds' bill, the option is given the President to place an embargo or not to do so, or to withdraw embargoes that have been placed, and so on. Do you believe he should have that right, or do you believe it should be made mandatory?

The CHAIRMAN. May I correct your statement somewhat, Mr. Tinkham? You say that it is discretionary.

The language of the bill is—

which will serve to promote the security and preserve the neutrality of the United States, or to protect the lives and commerce of nationals of the United States, or that to refrain from placing such restrictions would contribute to a prolongation or expansion of the war and shall so proclaim, * * *.

In other words, if any of those conditions arise, then the President shall do so and so. He has no discretion if those conditions arise. So your question is not exactly fair.

Mr. TINKHAM. He is given discretion by the language in relation to any materials which can be used in the conduct of war, if in his opinion they promote security, and so forth. Of course, he can say the material does or does not. It gives him the option.

The CHAIRMAN. That is true as to certain articles, but if these other conditions arise, or any one of them, then he has to.

Mr. TINKHAM. Yes; but it is not mandatory. He can put the embargo on or not, as he pleases.

The CHAIRMAN. Oh, no; "shall" means "shall."

Mr. TINKHAM. What is that?

The CHAIRMAN. "Shall" means "shall."

Mr. BLOOM. "Shall" means that it is mandatory.

The CHAIRMAN. That is right.

Mr. TINKHAM. When he determines that it will serve to promote the security and so forth.

The CHAIRMAN. Yes.

Mr. TINKHAM. Then he can determine whether it will or will not, so that the "shall" there is not the "shall" that goes to the gist of the matter.

The CHAIRMAN. He has no discretion. He is the determining factor on whether or not any of these conditions have arisen.

Mr. TINKHAM. Exactly.

The CHAIRMAN. But that does not give him any discretion about whether he shall make the proclamation. It is a question whether these conditions have arisen, and if they have, then he shall do so and so. In other words, he determines the question of fact.

Mr. TINKHAM. The discretion consists in that it depends upon whether he thinks that it should or should not be done. And this is discretion to which I object.

The CHAIRMAN. No, no; I would not put that construction on it.

Mr. KOPPELMANN. May I say in answer to the question that I can only reiterate the statement I made a moment ago, to wit: The faith I have in our President, or in any President, in the light of the fact that the people of America demand neutrality, is that he will exercise the right to declare those goods that are for the purpose of war embargoed, so that our neutrality may be maintained.

Mr. TINKHAM. That gives him the right either to make war or not to make war. He has the option either of putting on an embargo on those materials which can be used for war purposes, or of not putting an embargo on such materials. He can use the authority one way or the other. If he makes a discrimination, just as he might in relation to oil in the present situation, it might be taken as a hostile act. It has been so declared in Italy. It might involve us in a European war.

In other words, it would involve us in European politics. He has the authority to do that.

Mr. KOPPELMANN. That is your statement of it, but if you are asking me the question, let me say this to you, that I do not believe under my bill, or under any bill that your committee favorably reports and becomes a law, the President of the United States would,

at this stage of affairs, place an embargo on oil, so far as the countries now at war are concerned.

Mr. TINKHAM. But he attempted to do that last fall; he used every possible method to do it. He did not have the legal right to do it, but he attempted to do it, notwithstanding, by what is called moral suasion. What do you think is the purpose of this section, at this time?

Mr. KOPPLEMANN. It depends upon your understanding of what he attempted to do. We also know this, that the friendly offices of this Government, under the direction of our President and the State Department, kept oil out of Ethiopia through the Standard Oil Co.

Mr. TINKHAM. You are not for neutrality if you are not for mandatory action by this Government.

Mr. KOPPLEMANN. That is your opinion.

Mr. TINKHAM. Of course.

Mr. MARTIN. Has anybody established the fact that there is any oil in Ethiopia yet?

Mr. KOPPLEMANN. I do not know; I cannot answer that.

Mrs. ROGERS. May I ask this question? Is it not true that if President Wilson decided not to ship, or not to allow people in this country to ship goods to the Allies, he would have made a present of the war to Germany?

Mr. KOPPLEMANN. I do not know.

Mrs. ROGERS. There is no question about that. The Allies had to have our supplies. It would have been an unneutral act, of course.

Mr. CALDWELL. I wish you would return to your treatment of section 16 (b) of Judge McReynolds' bill, and tell us again what you think of that section or subsection? I was not entirely clear from your treatment of it.

Mr. KOPPLEMANN. What does it refer to?

Mr. CALDWELL. A reaffirmation of our rights.

Mr. KOPPLEMANN. The so-called freedom of the seas?

Mr. CALDWELL. The reaffirmation of our rights under international law as it existed prior to August 1, 1914.

Mr. KOPPLEMANN. In view of the fact that international law has not been recognized in time of war, I am afraid that if we attempt in our neutrality bill to make mandatory that we shall demand our rights under international law, if we take that step which becomes necessary, namely, insisting through the exercise of force that we have the right to send our ships into war zones or to do the many things that might be allowed under international law, we would endanger this country by doing something that would call for war by the United States against the nation which did not permit us these specific rights under international law.

Mr. CALDWELL. Then, to put it in another way, you feel that in the interest of neutrality we should relinquish our rights and announce to the world the relinquishment of our rights under international law?

Mr. KOPPLEMANN. I know that that is a very large question—international law.

The CHAIRMAN. If you will allow me, many questions can arise under international law. We want to hold what is good in it, that is all.

Mr. GRAY. There is just one question I want to ask. Does your statement, that you have filed with the committee, include a specific provision in regard to the freedom of the seas?

Mr. KOPPLEMANN. I did not hear that.

Mr. GRAY. Does your statement that you have filed here include a specific provision regarding the freedom of the seas?

Mr. KOPPLEMANN. Yes; it does.

Mr. ALLEN. I would like to ask this question. It was asked once before, but I did not understand your position. I am sending a telegram to the agricultural and manufacturing interests in Illinois. Illinois is an agricultural State. What effect do you think it would have, if the foreign powers become aware that we have passed this neutrality bill which will stop the shipment of goods to them in the event of war? Are they going to stop trade with us immediately, and will we lose a large percentage of our foreign trade now?

Mr. KOPPLEMANN. I am very definitely of the opinion that when they know of the neutrality measure passed by this country, before going into war, they will study very carefully our legislation on neutrality; and it is my opinion that our neutrality legislation ought to be and will be along the lines that will deter foreign nations from expecting any aid from the United States, if they go to war.

Mr. ALLEN. If you were the head of the Government of France, and you knew that in time of war we were not going to ship you any goods, would you not start trading with Brazil or some other countries, feeling that when you needed the goods most, which would be during a war, the United States would not be able to supply your needs?

My State is against this bill, there is no question about it.

Mr. KOPPLEMANN. That is, they are against it because they are afraid it will lose them some business.

Mr. ALLEN. That is right.

Mr. KOPPLEMANN. I differ there, of course.

Mr. RICHARDSON. But the gentleman is talking about peace-time business now.

Mr. ALLEN. Do you think we would lose peace-time business?

Mr. KOPPLEMANN. No.

Mr. ALLEN. You do not think we would?

Mr. KOPPLEMANN. I am not prepared sufficiently on the question of trade to answer your question very definitely.

Mr. ALLEN. If you were in charge of the government of some foreign country, you would say, probably, "If we get into a war, the United States says that they are going to stop trading with us; we would better start negotiations with nations who will agree to send us goods in time of war, when we will need them most."

Mr. KOPPLEMANN. I suppose the best answer to the question is this: We have got to pay something to protect this country against war. We may have to pay something, we may have to sacrifice something.

Mr. CALDWELL. And to restate your position, you are willing to relinquish and announce to the world your relinquishment of your rights, under international law; and relinquish whatever may be necessary of our international commerce, to accomplish neutrality.

The CHAIRMAN. I think you have gone a little far in that.

Mr. RICHARDSON. Let the witness answer the question.

It is a very logical conclusion, in my opinion.

Mr. KOPPLEMANN. It may be a logical conclusion to draw from certain questions and answers that have been coming back and forth here. These answers necessarily are made hastily and the questions are not always thoroughly understood. But I want to say this, that it was proven in the past that these rights under international law are completely forgotten when war comes.

I should dislike very much to see a provision contained in a bill passed by the Congress of the United States and signed by the President, which demands certain rights which we know in advance will not be respected, and if we attempt to enforce those rights we may be drawn into a war.

I think much study must be given to the answer to your question, as you put it. But that is the purpose of my remarks, and that is my thought, and that is the best way I know how to answer it.

Mr. SHANLEY. Mr. Chairman, I want to ask the gentleman a question, because he is a member of the Banking and Currency Committee, and as such knows the banking situation.

The representative of the State Department here I think will bear me out on this, that we have a multilateral treaty with South American countries, signed by Mr. Hoover's administration in 1932, as I understand it. One of the provisions is that none of those signatory States will loan money; that is what that multilateral treaty with those South American States is a recodification of the laws of neutrality. Is that so?

Mr. GREEN. It is true that we have signed such a treaty and it has been ratified, but whether it contains such a provision as you have just referred to, I could not say.

Mr. SHANLEY. I looked it up the other night. The question comes to mind because of this fact. One of the provisions here is that we shall not export arms or ammunition, and we will not loan money to belligerents. Now, one of the provisions, as I said the other day, of international law, is that a nation as a nation cannot loan. During the summer people came to me and said, "Here is your multilateral treaty which prevents the United States from loaning money." There is your precedent.

The catch in that, as I explained, is that that treaty only prevents the United States as a sovereignty, as a nation, from loaning money. But it does not prevent individuals here from loaning money. So in substance it is nothing. It is no precedent at all, but just a reaffirmation of the previous law.

Now, would you say from your experience on the Banking and Currency Committee, particularly with the recent legislation in mind, that private finance and credit is so interwoven with the Government that there is no difference; that we cannot justify the action of individuals loaning money to nations, and say that it is not the Government in reality that is doing it?

Mr. KOPPLEMANN. If you read my bill, Congressman, you will find that I refer to individuals in this matter of credits and loans.

Mr. SHANLEY. I know, I have read the bill. But would you say that the structure of our financial system is so interwoven or interlocked with the Government itself through the Federal Reserve System that we cannot disassociate individuals from the Nation;

that when individuals loan, in such a case as I have referred to, it is really the government that loans, because of the existence of our Federal Reserve System? I ask that question because of your knowledge of the banking situation.

Mr. KOPPLEMANN. I am not up on finance and credits sufficiently to answer the question whether or not, when an individual loans, is it in effect the Nation, except to say to you that my bill calls attention to individuals loaning money.

Mr. SHANLEY. Will you be kind enough to confer with your Banking and Currency Committee and give us a statement on that at some future time?

Mr. KOPPLEMANN. I shall be very glad to. It is an interesting question, to me.

Mr. SHANLEY. Thank you.

The CHAIRMAN. If there are no further questions, we thank you for the statement you have given us, Mr. Kopplemann.

The CHAIRMAN. Congressman Ludlow has requested an opportunity to make a statement before the committee. We will hear him at this time.

STATEMENT OF HON. LOUIS LUDLOW, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF INDIANA

Mr. LUDLOW. Mr. Chairman, and gentlemen of the committee: When your chairman very kindly told me the other day that there would be a place for me on today's program I pecked out some notes on my trusty old newspaper typewriter with my 2-finger system. With your indulgence I shall present them now for whatever they may be worth. I think I may make a request similar to that which was made by my predecessor, Mr. Kopplemann, which is, that if it is just the same to you I should like to present a consecutive statement and then, of course, I shall be very glad to yield for any questions, or if any of the members of the committee desire to interrupt me, that will be all right.

I think that no one appreciates any more than I do the intensity and the complexity of the problem this committee has before it, nor is there any one who has more good wishes for it than I have in the discharge of its very great responsibility.

I appreciate your kindness in inviting me to express my views to your committee on neutrality legislation, which is all the more gracious on your part because I am not, nor do I pretend to be, in any sense or degree an expert on this subject. I am just one of many millions of plain Americans who have a deep and abiding hatred of war and who are just now vitally concerned to see that everything possible is done to keep America out of future foreign wars. I have thought a lot about it and have tried, perhaps ineffectually, to apply some common sense to the situation. I have a heavy burden on my heart in connection with past wars and the prospect of future wars, as I am sure every member of this distinguished committee has also, and I think that the committee is to be commended for its hospitable open-house invitation to all who are interested to come and express their thoughts, so that out of the numerous and varied counsels may come something that will be really efficacious and the closest possible approximation of a real solution.

I come to you today in a sort of Irishman's role. I come in the role of the Irishman with whom his entire regiment was out of step. In respect to one vital provision of proposed neutrality legislation I do not agree with any of the many neutrality bills that have been introduced. I believe that all of them—the bill of Judge McReynolds, the Nye-Clark-Maverick bill, the bill of my friend Representative Kopplemann, and all others, allow normal quotas of essential materials of war, not strictly munitions and implements of war, to be shipped to warring nations. The only difference between the bills is as to the formula for determining normal quotas, whether it shall be a 10-year yardstick, as provided in the Kopplemann bill, a 5-year yardstick as provided in the Nye-Clark-Maverick bill, or a yardstick to be devised by the President, as proposed in the McReynolds bill.

I am dead against the normal quota principle. If we are determined to keep this country neutral and protect it from foreign wars, we had better throw the normal quota idea overboard at the outset and cut off all trade and financial relations absolutely with a foreign country when it goes to war.

Suppose there is a friendly foreign country, which we will designate as Nation A, to which we have been sending copious quantities of oil, coal, copper, wheat and other foodstuffs, wool, and so forth, and suppose there is another equally friendly foreign country, Nation B, to which we have sent no exports, whatever, and with which we have had no trade or financial relations. Suppose furthermore, that war should break out between Nation A and Nation B. Under any of the pending neutrality bills we would continue to supply Nation A with essential war materials and if we pass this legislation we will be doing Nation A the kindness to put it on notice in advance that if it goes to war with Nation B it can depend on these exports from the United States as part of its capital war assets.

If that would not be a lop-sided brand of neutrality, what would be? What, pray tell me, could be said in defense of it? To be consistent in our pretense of neutrality we ought then to send to the combatants notes something like the following:

TO NATION A.

DEAR FRIENDS: We want you to know that we are absolutely neutral, but we will be sending to you a million barrels of oil per annum, so many bushels of wheat, so many tons of coal, so many bales of cotton, so many pounds of copper, steel, wool, etc., and the delivery of these peacetime supplies, which are useful at all times, is guaranteed by the United States Neutrality Act of 1936.

Very sincerely,

UNCLE SAM.

TO NATION B.

DEAR FRIENDS: We want you to know that we are absolutely neutral, but we will be sending to Nation A, the country you are fighting, a million barrels of oil per annum, so many million bushels of wheat, so many tons of coal, so many bales of cotton, so many pounds of copper, steel, wool, etc., and the delivery of these supplies to your enemy is guaranteed by the United States Neutrality Act of 1936. We hope you appreciate the fairness of our position.

Very sincerely,

UNCLE SAM.

Mr. CALDWELL. Mr. Chairman, if I may, I would like to ask one question.

The CHAIRMAN. Yes.

Mr. LUDLOW. I shall be very happy to answer it if I can.

Mr. CALDWELL. Would you reverse the position now and say that two nations, Nation A and Nation B are going to war. One of them has all of the oil and the steel and the wool and the cotton that they need. They do not now and have not been purchasing from the United States. They are independent, self-sufficient. Nation B, on the other hand, has been entirely dependent in the past, to a large extent, upon its imports from the United States. Now, for us to say that we will ship none of the commodities mentioned to either country would be just as unneutral as it would be in the cases you have mentioned, would it not?

Mr. LUDLOW. I do not think that we ought to evaluate the natural resources that God grants to any of the different countries in the determination of our neutrality policies. We are not responsible in any way for the natural advantages one country may have over another. I think we ought to accept the situation as it is and try to be absolutely neutral, to keep out of all of these entanglements.

We are all friends together, striving for a common objective that should inspire our noblest efforts—protection from war—and let us consider seriously the probable effect of the normal quota principle and the unfathomable dangers that are indissolubly associated with it. Nation B, with its back to the wall, naturally will do everything it can, by submarine activities, airplane bombs, and other means, to prevent delivery of our exports to Nation A and Nation A, meanwhile, will be doing everything it can to drag the United States into war on its side to protect our trade.

There is but one way to be neutral, and that is to be neutral. We cannot be neutral and accessory to war at the same time. The two must be completely divorced. We cannot serve both the God of creation, who desires peace among His children, and the god of greed who would not hesitate to plunge a nation into war for the sake of filthy dollars. The way to be neutral—the only way to be neutral—is to stop all trade and commerce, loans, and credits with foreign nations when those nations break the sanctity of world peace by going to war.

Another evil of the quota system is that nations that contemplate going to war will stock up on war supplies from the United States, knowing that the more war supplies they stock up on in advance the more supplies they will get from the United States when war is on. That is the way the quota system would operate. History shows that dictators usually plan for wars long in advance and under some of these neutrality proposals dictators, deliberately arranging for a war, could almost dictate their quotas of American supplies in advance. This might be conducive to an expansion of American trade, but it would not be conducive to an expansion of morals.

Those who fear the effect on our foreign trade if we do not allow normal quotas, should be thinking of the immeasurably greater destruction of our trade and dislocation of our industries that would result if we should again become involved in war, with all of the destruction that modern war connotes. The records of the Department of Commerce and the Treasury Department are very illuminating on this point. Our trade with all the world amounts to

only 7.5 percent of the estimated total value of all movable goods produced in this country, according to the Department of Commerce, which gathers foreign trade statistics. It is impossible to image a situation where a complete embargo on goods to all of the foreign nations that conceivably might be at war at one time would amount to more than a tiny fraction of the cost in dollars and cents of the World War, or to more than a mere bagatelle compared with the astounding cost and the inevitable loss of life that would result if we should allow cupidity for profits to snare us into another such war.

The actual direct cost of the World War up to date, as shown by Treasury Department records, is \$41,765,000,000 or the equivalent of \$60,000 for every day since Christ was born, and that does not take into consideration future pension lists, veterans' hospitalization, and other left-over expenses. President Coolidge probably was not far wrong when he said that the World War will ultimately cost America \$100,000,000,000. The total foreign trade of the United States in 1934, the last year for which statistics are available, was \$2,100,000,000. Thus, it will be seen that if the entire foreign trade of the United States, including all exports of every kind and description, were entirely cut off for 47 years, the loss to the United States would still be less than our part of the financial cost of the World War, based on Mr. Coolidge's forecast, to say nothing of the heart-sickening toll of lives and the terrible burden of grief and misery caused by that war. Therefore, from every standpoint, economic no less than humanitarian, there is a genuine obligation resting upon us to write into the statutes a real neutrality law with teeth in it.

There are a few other points contained in the bill I have introduced that are not touched upon in other proposed drafts, as far as I am aware. One of these is a provision (sec. 5 of my bill) which directs the Secretary of Labor to deport aliens who come to this country and spread propaganda or engage in other activities that would interfere with America's position of neutrality "other than the legitimate exercise of free speech."

Mr. KLOEB. It has been our experience, I think, that as much damage, or, perhaps, more damage, is done to the neutral position of this country by loquacious citizens who happen to bear some title of the United States going to countries in Europe and expressing what they believe to be the position of the United States. Now, the gentleman is acquainted with discussions in the past on the question of free speech and the question of freedom of the press. You have here in your section 5 a provision for the deportation of any alien who spreads propaganda in this country.

Mr. LUDLOW. That is right.

Mr. KLOEB. What do you say as to the cessation of citizenship or the cutting off from office of an American, be he a member of Congress or otherwise, who goes over to Europe and attempts to speak the opinion of the United States in connection with a war that may be going on there?

Mr. LUDLOW. I will merely make this observation that it is exceedingly bad taste to do that, to say the least.

Mr. KLOEB. It would considerably discourage them, would it not, if we could do it in a law of this kind?

Mr. LUDLOW. Yes, but I am not prepared to say that I would advocate forfeiture of citizenship in such a case. I believe this sort of activity—I am referring now to propaganda activities of aliens—was a common practice about the time of the World War. I have talked with Col. Daniel N. MacCormack, Commissioner of Immigration and Naturalization, who tells me that there is now no law on the statute books to cope with such anti-American activities and that he is in entire sympathy with the objective to be sought, but frankly I will say that both he and I recognize that skill will have to be exercised to work out such a provision in language that will not interfere with the constitutional right of free speech. There is, nevertheless, a real necessity of curbing alien agitators who undoubtedly will come to the United States and seek by devious methods to throw us off of our natural balance and I believe that whatever the final draft of the neutrality legislation may be it should contain some such provision as section 5 of my bill.

Mr. GRAY. Are you in favor of a complete embargo on the declaration of war.

Mr. LUDLOW. I am in favor of a complete embargo both as to goods, loans, and credits.

The CHAIRMAN. As to everything?

Mr. LUDLOW. Yes.

Mr. LAMBETH. You favor the closing of our ports?

Mr. LUDLOW. I mean an embargo on shipments to foreign nations that are at war.

Mr. LAMBETH. You favor the closing of our ports?

Mr. LUDLOW. No, I do not mean to all foreign nations. I mean to belligerent nations.

Mr. GRAY. You mean to the belligerents only?

Mr. LUDLOW. Yes, only to the belligerents.

Mr. BLOOM. Mr. Chairman, I would like to ask Mr. Ludlow a question there.

The CHAIRMAN. Yes.

Mr. BLOOM. Mr. Ludlow, wouldn't it be much better for you to have a special bill to come through the proper committee to take care of the provision in section 5, irrespective of any neutrality bill?

Mr. LUDLOW. I will say to the gentleman, my friend from New York, that I am not as experienced a legislator as he is, but I do not see that it is out of place in this bill. It has an intimate relationship with neutrality, and I think it is proper here.

Mr. BLOOM. As to this bill, the way I understand it, it only takes effect in case of war. The neutrality part of your bill only takes effect in case of war?

Mr. LUDLOW. Yes.

Mr. BLOOM. Now, why shouldn't that be at any time, in time of peace as well as at war time? That is the way I should say it would be preferable.

Mr. LUDLOW. It might be made applicable to any crisis that might arise.

Mr. BLOOM. I believe in the principle of section 5, but I believe it should be applicable at all times, both in peace times, and times of war.

Mr. LUDLOW. Because of my more than 40 years' experience in newspaper work I am, naturally, in favor of the principle of free speech. For that reason I hate to make it any broader than necessary to pre-

serve our neutrality. I believe in free speech but I do not believe in allowing agents of foreign governments to take advantage of free speech to undermine our neutrality.

Mr. BLOOM. Why shouldn't it protect us in peace time to prevent us from getting into war?

Mr. LUDLOW. Yes; that might be a point worthy of consideration.

Mr. GILLETTE. Mr. Chairman, I have just a couple of short questions to ask Mr. Ludlow.

The CHAIRMAN. Yes.

Mr. GILLETTE. This bill, as I have hastily read it, does not take into consideration a full embargo against the goods shipped to neutral countries for transshipment to belligerent countries, other than as provided in section 7.

Mr. LUDLOW. I see what the gentleman means. I think that is an omission that should be corrected. I have in mind introducing a supplementary provision which possibly might, when noncombatant nations are found to be transshipping goods to belligerent nations, place an embargo that would at least hold shipments down to normal quotas on those particular nations.

Mr. GILLETTE. Were you attempting in your language prohibiting loans and credits to belligerent countries, referring to just action by the nation alone as a nation or individuals also?

Mr. LUDLOW. I am referring to the nationals of that nation as well as to the nation as a whole.

Mr. GILLETTE. I mean as to the people that are lending the money, not as to the recipients of the money.

Mr. LUDLOW. I am trying to cut off loans and credits by embargo, to cut them clear off. I believe that if we continue to finance belligerent nations, or the nationals of belligerents, we will always be in danger of being dragged into war.

Mr. CHAIRMAN. I appreciate your kindness. I have trespassed too long now on your time, but there is one other suggestion contained in the last paragraph of my proposed bill which applies a penalty for disguising the identity of a consignor, and I would like to call your attention to it. I might say that an official of the State Department told me that a great many shipments are going out disguised under the names of Italian aliens when obviously they are shipments made by American concerns. That, of course, is deception, and I am fearful that it is inimical to the public interest, and I think that it might be corrected by the provision contained in the last paragraph of my bill.

Mr. BLOOM. I was very much interested in your letters to the nations A and B insofar as the shipment of goods was concerned. What do you think of this idea if it could be worked out: If nation A and nation B were at war and their average quota, we will say, was \$5,000,000 for nation A, and just for argument's sake, nation B's quota was only \$100,000. What do you think of the idea when war is declared between nations to have it understood that all nations should receive the same amount of goods, taking either the lower or the higher amount based on their quotas? In other words, if nation A were to receive \$5,000,000 worth of goods, although nation B's quota is only \$100,000 worth, to have an equal neutrality put them both on the \$5,000,000 quota?

Mr. LUDLOW. I think the gentleman is actuated by the spirit of neutrality that I had in mind, to be neutral toward them whether

expressed in regard to parity of allotments or no allotments. I think, however, that the suggestion of making no allotments would carry out the idea the gentleman has in mind. I prefer the language of my bill.

Mr. BLOOM. Why not make it so that the larger nation should not receive any more than the smaller nation? Then you would be exactly neutral, wouldn't you?

Mr. LUDLOW. I think that would be better than the gentleman's first suggestion, but I think my bill covers the situation best.

Mr. BLOOM. Will you accept that as an amendment?

Mr. LUDLOW. I do not know that my bill is going to be accepted by anybody. [Laughter.]

Mr. BLOOM. I mean, would you accept that as an amendment to your bill? What do you think of it?

Mr. LUDLOW. It is wholly inconsistent with my bill.

Mr. BLOOM. Or in any bill, would you agree to that, that it would be exactly neutral, providing the nations that were at war should take either the highest amount or the lowest amount and say that would be the amount of goods that both would get?

Mr. LUDLOW. I think I understand the gentleman's intent, which is protecting our foreign trade as far as we can and at the same time observe neutrality.

Mr. BLOOM. Yes; and still be neutral.

Mr. LUDLOW. Just offhand, without having the slightest opportunity to digest your proposition and to consider it, I could not promise to agree to it.

The CHAIRMAN. He does not agree with you on the basic question, Mr. Bloom.

Mr. BLOOM. Oh, he does.

The CHAIRMAN. No; he does not.

Mr. LUDLOW. I am afraid we could not get together on that.

Mr. TINKHAM. I should like to ask you a question in relation to section 4 of the McReynolds bill.

Mr. LUDLOW. I think I may spare the gentleman's inquiry and conserve his time by saying that I am in complete sympathy with him on that bill. If the question is whether I favor so-called "discretionary neutrality" as compared with mandatory neutrality, my answer is I believe in mandatory neutrality.

The CHAIRMAN. So much mandatory that he stops all exports, loans, and credits of all kinds just as soon as war commences.

Mr. LUDLOW. Yes; to the belligerent nations.

The CHAIRMAN. Is that your present position now, Mr. Tinkham, that you want us to stop all exports of all kinds, loans, and credits as soon as war breaks out?

Mr. TINKHAM. I am talking about restrictions of shipments from the United States of all materials that can be used in the conduct of a war.

The CHAIRMAN. The mandatory provision you want is to stop it all.

Mr. TINKHAM. That is correct.

Mr. LUDLOW. Thank you, Mr. Chairman and gentlemen of the committee, for this opportunity to be heard.

(Whereupon, at 12:05 p. m., the committee adjourned until tomorrow, Tuesday, Jan. 14, 1936, at 10 a. m.)

AMERICAN NEUTRALITY POLICY

TUESDAY, JANUARY 14, 1936

HOUSE OF REPRESENTATIVES,
COMMITTEE ON FOREIGN AFFAIRS,
Washington, D. C.

The committee met at 10 a. m., Hon. Sam. D. McReynolds (chairman) presiding.

The CHAIRMAN. The committee will please be in order. Our first witness this morning is Congressman Sisson, of New York. Mr. Sisson was here all day yesterday. I should like to say, for the benefit of the gentleman's constituents, that he is a very valuable member.

STATEMENT OF HON. FRED J. SISSON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. Sisson. Mr. Chairman and members of the committee, I quite agree with what a number of the members of the committee said yesterday about the difficulty of the task with which this committee is confronted. The subject of neutrality legislation, so-called—and incidentally, while I have not any better term I could apply to the legislation, the term "neutrality" as many of you realize, is in some respects a misnomer, because one of my conclusions is that there is not any such "animal" as complete neutrality or impartiality. Partly by reason of that, and by reason of the fact that this goes to the very vital question of our relations with the other countries of the world, it seemed to me that this is one of the most laborious and difficult tasks ever imposed upon any legislative committee.

Judge McReynolds, who is the chairman of the committee, and the members of the committee, are entitled to the greatest credit, in my opinion, for producing a bill here that comes as near to meeting the situation and obtaining the desired objective, and meeting the varying views of different Members of Congress who have studied this question and are interested in it, as any bill that has been introduced. And if it be any comfort to the committee—and I know the committee are entitled to all the comfort they can get—

The CHAIRMAN. Thank you.

Mr. JOHNSON. You are right, there.

Mr. Sisson. I might say that several weeks ago, after I had read quite a number of books, including the book you mentioned yesterday, Mr. Johnson, *The Road to War*, and a good many pamphlets and articles and other documents on this subject, I sat down and

tried to prepare a bill myself. After I had worked on it for several weeks, I was very much disappointed with the result of my work.

About that time, the McReynolds bill and the Maverick bill, or the Nye-Clark bill, were printed and became available. After I read those and studied them somewhat, I decided against introducing any bill of my own. So you may be relieved of any apprehension that you will have to study any bill of mine.

I am starting out here with the premise, in the first place, that the object which we all want to accomplish—that is, the main object that we want to accomplish; our primary purpose, in other words, is to keep this country out of war, and while we had two very fine statements yesterday—I did not hear Congressman Lamneck but for a fragment of his statement, but I did hear Congressman Kopplemann's statement and Congressman Ludlow's statement—we had two very fine constructive statements, as I say, from these gentlemen, and I am not going to try to go over anything that they said, because I am assuming here, just as a practical matter, that whatever the final bill is that this committee reports out, it will be, in the main, naturally and logically, the McReynolds bill; or it will be a bill that will have as a basis the McReynolds bill with, perhaps, some changes which might be commended to members of the committee from other sources.

I have only a few changes to suggest, after a study of the Nye-Clark-Maverick bill. Some one asked me yesterday which one of the two bills I thought was preferable, and I did not answer the question. I did not think it necessary, and I do not think it is necessary to answer the question now. I am sure Judge McReynolds and this committee are open-minded enough—they have shown that—so that if there are changes, in the light of study, that would seem to eliminate further uncertainties or ambiguities or dangers, they will be willing to accept them. There are only a few substantial differences between them. The underlying philosophy of the two bills, the McReynolds bill and the Nye-Clark-Maverick bill, is, in the main, the same.

There may be some few respects in which the language in some provisions of the Nye-Clark-Maverick bill might commend itself as being preferable.

I had intended, when I appeared before the committee yesterday, to take but very little time, merely to make a general statement regarding the origin and purpose of this legislation, and to point out two changes or additions to the McReynolds bill which I had prepared; and also to point out a few respects in which I thought some of the provisions of the Maverick bill were preferable. I had assumed that Congressman Maverick, who had appeared before the committee, and others, in their statements (although I did not hear them) had covered these differences, and I did not wish to take up the time of the committee or burden the committee with them.

However, two of the members of the committee suggested yesterday that if I were to appear and take your time, they would like me to be as specific as possible and point out in detail the respects, if any, in which I thought some of the provisions of the Maverick bill might be preferable; and specifically what changes I thought should be made in the McReynolds bill.

I want to say, if it appears to any one who was interested in the position that I took regarding neutrality legislation in the last session of Congress, that I have changed my position or have changed my mind since last year, I can only reply to that, that at that time the issue was, or seemed to be largely, between mandatory legislation and permissive or discretionary legislation, as vesting certain powers in the President.

I have somewhat changed my views since the last session of Congress, because while I think that in the important respects this legislation ought to be mandatory, certainly, it ought to apply as both of these bills do, to all of the belligerents so far as embargoes are concerned; nevertheless my study of the question has forced upon me the conclusion that we cannot entirely foresee, that we are very far from being able entirely to foresee or anticipate what position conditions arising in the future may require this country to take in order to keep us out of war, or in order to help prevent or lessen the duration of war.

The McReynolds bill goes a long way toward the position which I, together with a number of other members of Congress, took at the last session in supporting so-called mandatory legislation. I have come to the conclusion that the McReynolds bill probably goes about as far toward the position that some of us took at the last session, in most respects, as we can safely do at the present time.

The McReynolds bill is mandatory, in the first instance, so far as applying to all the belligerents is concerned.

There are, of course, difficulties. Some of them were brought up yesterday. For example, the matter of determining when a state of war exists is a question of fact which necessarily must be decided by some one, and must be decided by some one, perhaps, without calling Congress together.

Mr. EATON. And who is in a position to get all of the facts in the case.

Mr. SISSON. Exactly, Congressman Eaton, who is in a position to get all the facts of the case. And while there may be difficulty in defining when a state of war exists, or writing that into the legislation, still it seems to me that in almost every instance, the President, who is in a position to get all of the facts in the case, can determine when a state of war exists, when a war breaks out, just the same as you can tell when a fire breaks out.

In my opinion, also, we cannot safely write into this legislation an enumeration of the commodities other than munitions and implements of war, as the McReynolds bill does, the exportation of which would contribute to the duration of the war.

I think again that that is a fact-finding power which should be vested in the President. However, when the President has made such a proclamation, then the embargoing of such commodities, when so proclaimed by the President, should be mandatory as applied to all the belligerents unless and until the Congress, with the approval of the President, shall decide otherwise.

Mr. TINKHAM. That is, you mean section 4 should be mandatory, not permissive.

Mr. SISSON. Mandatory so far as applying to all the belligerents is concerned.

Mr. TINKHAM. Mandatory in its application.

Mr. Sisson. In its application to all the belligerents: yes.

Mr. TINKHAM. That is what I mean, to all the belligerents.

The CHAIRMAN. It is now.

Mr. JOHNSON. There is another section that makes it so.

Mr. LAMBETH. Before you proceed further, Mr. Sisson—and I do not want to interrupt your excellent statement—I am afraid Mr. Tinkham's question has been misconstrued. I interpret his inquiry to be this, that whenever the President determines that a state of war exists, and proclaims an embargo, under section 3, on arms, to all belligerents, whether or not automatically the embargo or the quotas, as provided under section 4, of articles not munitions, should become effective immediately; is that correct?

Mr. TINKHAM. That is correct.

Mr. LAMBETH. That is the point.

Mr. Sisson. Then I am sorry; I did not understand Congressman Tinkham's question. I recall that he had some conversation with me yesterday and he was perhaps misled yesterday about my position. I do not think that it should be automatic. I think that that fact-finding power to determine what those conditions are must be vested, should be vested, in the President.

Mr. TINKHAM. There was no question about that in my mind either.

Mr. Sisson. Well, it is not automatic, then.

Mr. TINKHAM. Let me read you the section which is important.

Whenever, during any war in which the United States is neutral, the President shall find that the placing of restrictions on the shipment from the United States to belligerent countries of certain articles or materials used in the manufacture of arms, ammunition, or implements of war, or in the conduct of war, * * *.

Now, that is very broad. As you probably remember, Great Britain, from time to time in the last war, added things on her list of contraband so that finally nearly everything that could be used was on her contraband list.

Mr. Sisson. That is true.

Mr. TINKHAM (continuing:).

will serve to promote the security and preserve the neutrality of the United States, or to protect the lives and commerce of nationals of the United States, or that to refrain from placing such restrictions would contribute to a prolongation or expansion of the war * * *.

And that, I understand the chairman of this committee is willing to have stricken from the bill.

The CHAIRMAN. So far as I am concerned, but I do not know what the committee is willing to do about it.

Mr. TINKHAM. I understand; I said the chairman of the committee.

* * * and shall so proclaim, it shall thereafter be unlawful to export, or attempt to export, or cause to be exported, or sell for export, such articles or materials * * *.

Now, that section leaves it entirely to the President to say what the materials are. Of course, there is a very wide range of materials. Then we leave it also to the President to say when the embargo should be put on those materials. That is the optional part of that provision.

If we leave it to the President, he does not have to put on an embargo until perhaps one side or the other, because of their geographical position, have obtained what they want. Now, do you not believe that the coming into effect of that embargo against materials should be automatic rather than at a time to be determined by the President; the selection of the materials themselves, however, as I think you said, to be left to the President. Have I made myself plain?

MR. SISSON. Yes; you do now. I will say, Congressman Tinkham, that I have not any quarrel with the language of this section. I think that entire discretion must be vested in the President.

MR. TINKHAM. Then you have a bill, which, in my opinion, is not a neutrality bill.

MR. SISSON. Well, I do not know that you will ever get a bill which establishes entire neutrality or impartiality.

THE CHAIRMAN. Do you not think, Mr. Sisson, if we were to do as Mr. Tinkham suggests, we would be taking part with the League of Nations in establishing an embargo immediately upon certain countries at war now?

MR. TINKHAM. That is true.

THE CHAIRMAN. And it would be playing into the hands of the League of Nations.

MR. SISSON. I will answer that in this way, Mr. Chairman. I was coming to it a little later in my statement. It perhaps might apply to an existing situation. I think that if and when—and this is perhaps going a little farther than would be required in an answer either to Mr. Tinkham or the chairman—if and when the time comes that an overwhelming majority—either all or substantially all—an overwhelming majority of the nonbelligerent countries have, in effect, decided that one or more of the belligerents has resorted to war improperly, whether in contravention of the Kellogg Pact or otherwise, we ought not be in a position, we ought to give notice in this legislation that we are not going to be in a position, to be the main or the sole hindrance to lessening the duration of that war, and perhaps its termination.

That is the first part of my answer.

But the second part of my answer is this: I do not think we are called upon, and I do not think we would be accomplishing the primary purpose of this legislation, namely, to keep us out of war, if we did, to stretch out our necks in advance of the countries represented as signatories to the Kellogg Pact, or as members of the League of Nations, and apply an embargo on other commodities in advance of the time when the other countries had applied such an embargo. That is my answer.

MR. GRAY. May I ask you a question before you get away from the declaration there? There is a controversy here as to whether this declaration should be permissive.

MR. SISSON. If you will excuse me, Congressman, I should like just one more word on that previous answer. I might amplify that somewhat further, because by doing that, it seems to me, Mr. Chairman, we might not only be getting ourselves into war, but we might be fanning the flames and adding to the intensity or the magnitude of a conflict, either going on or impending.

The CHAIRMAN. And that is just the serious question that is before us right now, is it not, Mr. Sisson?

Mr. Sisson. Exactly.

Mr. GRAY. Mr. Sisson, there seems to be a possible conflict here between two schools of thought on the matter of this declaration; whether we should leave it wholly within the discretion of the President or whether it should be mandatory by the law.

What would be your idea about the Congress defining a certain state of facts as indicating the existence of a war, and then leaving it to the President to find the existence or nonexistence of that state of facts? That would take it wholly out of the discretion of the President, or of any one man, and would state a rule for him to be guided by.

Mr. Sisson. I think that the difficulty of writing such a definition, Mr. Gray, into a law, which would cover all possible contingencies in the future, is so great that you simply would make a bungle out of your legislation. I tried to do it, and I could not do it. Possibly some one has much greater ingenuity than I have. But I cannot frame the language which would do that.

Mr. GRAY. Would not that be less difficult in this kind of a case than other provisions of this bill; to define a state of facts which Congress would say would indicate a state of war, instead of allowing the President, on his own judgment and discretion, to find that a state of facts constitutes a war.

In other words, what would be the objection to Congress defining that state of facts and then let the President find the existence or nonexistence of that state of facts? That would remove these objections.

Mr. Sisson. Well, that might be done. It would not entirely remove all the objections.

In addition to that, I think any one of us, any member of this committee, could in 99 instances out of 100, determine when a state of war exists. That is, we could determine it after war breaks out. But I doubt that any member of this committee can write a definition that will cover the situation.

Mr. JOHNSON. Is it not true, Mr. Sisson, that war breaks out in varying and different ways; and that when you undertake by legislation to define what is a state of war, it is just like trying to define some of these other provisions; you get into deep water that submerges you.

I want to commend the gentleman from New York for the judicial manner in which he has treated this question. The trouble with most of us is this: We have a theoretical position on a question; and while theory may indicate that a certain position is right, when you attempt to translate that into a practical law, the incorrectness of the theory becomes revealed. Is not that true, Mr. Sisson?

Mr. Sisson. That has been my experience; yes.

Mr. JOHNSON. The gentleman has so well expressed my own experience in this matter, because I have undertaken to write some legislation with certain preconceived views in mind, which, when I tried to translate them into law, I found impractical. We have had several witnesses before our committee who have come out and said, "We want mandatory legislation," and that is all they would say.

If we asked them what they meant by that, they would say, "That is for you to work out." They would say, "We want mandatory legislation, but it is for you to work out the provision to cover it."

They cannot give us a concrete illustration of what can be done. All they want is to hang on to the one word, "mandatory", without telling us how it can be brought about.

So that I should like to congratulate the gentleman from New York on his frank, candid, and broad-gaged statement with reference to this legislation.

The CHAIRMAN. And I join in that.

Mr. KLOEB. May I put this question to the witness, Mr. Chairman? If we could in this legislation enact a provision that would mandatorily remove racial prejudices, would we not be taking the primary step that is essential for neutrality to this country?

Of course, we all recognize that that cannot be done.

Mr. Sisson. Only God can do that.

Mr. KLOEB. And therefore we cannot hope by legislation to reach every contingency, and especially those that are bound to come immediately, by law. We cannot do it.

Mr. Sisson. That is my understanding.

Mr. GILLETTE. Mr. Chairman, may I suggest that Mr. Sisson be permitted to proceed? He has some concrete suggestions to offer, and we have a number of other witnesses to hear.

The CHAIRMAN. I will ask the members please to allow Mr. Sisson to proceed, as far as possible, without further interruption.

Mr. Sisson. Let me say again that in my opinion, however, we cannot safely write into legislation an enumeration of the commodities, other than munitions and implements of war, the exportation of which would contribute to the duration of war.

Mr. CALDWELL. Mr. Chairman, I wish Mr. Sisson would cover this thought. Do you entertain any doubt as to the wisdom of section 4, or as to the desirability of incorporating in the bill section 4?

Mr. Sisson. No, I do not entertain any doubt as to the wisdom of that section. There might be room for a difference of opinion as to the basis for the quota.

Mr. CALDWELL. That would just be a detail.

Mr. Sisson. That would be a detail.

Mr. CALDWELL. But you are in accord with the general principle?

Mr. Sisson. Yes.

Mr. RICHARDSON. May I ask Mr. Sisson whether in connection with that section and the wisdom of it, you have considered the possibility of its adversely affecting our foreign trade in time of peace; not in time of war but in time of peace? Have you given that matter any thought?

Mr. Sisson. I have given it some thought. I have not given it as much thought as I have the matter of accomplishing the objective of keeping us out of war.

I know that this committee is going to be faced with some difficulty in writing legislation which will minimize the danger of getting us into war and which will not, at the same time, cost something in the way of loss of trade, both in time of war and probably also, Mr. Congressman, in time of peace. To write such legislation is an almost impossible task.

You are going to be faced with the necessity of recognizing that we must make some sacrifice, in my opinion. This country is going to be faced with that.

The CHAIRMAN. Following that up, along the line Mr. Richardson has suggested—and I think your answer is a splendid one—do you not think if other countries find that they cannot get just what they need during a war, because of a law of ours, that they will, even in time of peace, turn to other countries for their sources of supply? Great Britain once turned to Brazil and then to Egypt, where she is in control, in an effort to produce a sufficient supply of cotton. In other words, even in peacetime, she will turn her trade in that direction, in order to be prepared to have a source of supply in time of war. I do not pick cotton specifically except as an example. I am using it just as an illustration. But do you not think that that is likely to affect us in our trade even in peacetime? For instance, in our own case, during the war, when we could not get dyes from Germany, we had to learn to make our own dyes and finally equipped ourselves so that we could.

Mr. Sisson. How extensive that will be, of course, Mr. Chairman, I could not predict. There is a good deal of force to that argument. I do not know how—

The CHAIRMAN. To get around it?

Mr. Sisson. How we are going to get around it, and how extensive it will be, I cannot say.

Mr. CALDWELL. Do you not agree that unquestionably the commercial life of America will be adversely affected—to what extent, we do not know, but adversely affected by, for instance, section 4? And, let me say, I am not arguing against section 4, or for it. I am simply trying to ascertain the facts. I do not think we ought to fool ourselves. We must recognize the fact that the bill is going to cost us something and then determine whether we are willing to sacrifice that something for it.

Mr. Sisson. You are now referring to peacetime trade?

Mr. CALDWELL. In peace as well as in war.

Mr. Sisson. Yes. I think there may be instances in which that would be true. I think there may be other instances in which the good will which we are manifesting in such legislation as this, and which we would secure by manifestations we have made in such legislation as this, might to a great extent offset that.

But while there is the possibility that you suggest and the chairman suggested, I am very much in favor of holding down trade in time of war, proclaiming, giving notice to the world, that that will be our policy—to hold down trade in time of war as to these other commodities that may be useful for carrying on war, other than food, and so forth, to the normal trade.

In other words, if we have to make a decision between allowing some part of our population—and in the World War it was a rather small part of the population—to profit by trade, at the price of involving ourselves in war, or contributing to a duration in war, then I say that we should take the alternative that will keep us out of war.

Mr. BLOOM. In other words, you believe it is worth paying that price for it.

Mr. Sisson. I do.

Mr. LAMBETH. May I interrupt you once more—and I would not have interrupted your very excellent statement in the first place but for the fact that I feared you misunderstood Mr. Tinkham's inquiry, which has led to this very interesting discussion about the real crux of this problem—to my mind—and I say this largely to have you comment upon what you think of it, because apparently you have given this subject a lot of profound thought, and all of us, I am sure, are going to be greatly benefited by your observations here. Let us put the shoe on the other foot. We say to foreign countries that in time of war we are going to shut them off from certain supplies, or we are going to establish quotas.

Now, there are certain materials that we have to have in time of peace as well as in war, among them notably tin, rubber, silk. We have no tin whatever in this country. Last year a subcommittee of which I was a member, along with the chairman, the gentleman from New York (Mr. Bloom), the gentleman from Texas (Mr. Johnson), the gentleman from Florida (Mr. Caldwell), the gentleman from New Jersey (Mr. Eaton), and the gentleman from New York (Mr. Fish), made a study and submitted recommendations which have not been acted upon, on the subject of the tin supply. We could not fight a war of defense without tin. And we have no tin.

Now, as I say, putting the shoe on the other foot, let us assume that we get into difficulty and placing ourselves in the position of these other governments who control the tin of the world, let us limit it absolutely to that concrete proposition. Suppose they enact legislation similar to this. Where would the United States be?

Mr. Sisson. That is quite a serious objection. That is one reason—it is a reason which I had not so much considered, Mr. Lambeth, but which now confirms my opinion that the fact-finding power to determine what the commodities are which should be quoted, should be vested in the President.

In other words, again, I say, they should not be written into the bill.

Mr. TINKHAM. Would we not be doing exactly what Japan has been doing for the last 5 years, namely, acquire in quantities what we wanted, in advance?

Mr. Sisson. Well, I hope so.

Mr. EATON. Can we look forward and expect to be drawn into a war 5 years in the future?

Mr. TINKHAM. If you have this fourth section nonmandatory, you will get into a war, in my opinion.

Mr. BLOOM. Does not that apply to the offensive country and not to the defensive country, Mr. Tinkham?

Mr. TINKHAM. Yes; I think it usually does.

Mr. BLOOM. Then we would not fit in there at all, would we?

Mr. TINKHAM. Well, we have been the offensive at times, you know.

Mr. JOHNSON. We never, 5 years in advance, planned to go to war, as some other countries do.

Mrs. ROGERS. May I ask a question, Mr. Chairman?

Do you not think that you are placing too much power in the President? It is so easy for any powerful group to reach his ear, and use pressure, when the country does not know anything about

it. When pressure is brought on us, 435 Members of the House, everybody, all over the country, knows about it.

The policy of the State Department thus far has shifted like a weather vane in regard to oil; and an embargo on oil, after the war began between Italy and Ethiopia, would have been considered an unneutral act. Italy would be the only country that would suffer as a result.

Mr. Sisson. I wish the facts were such that I could agree with you, Mrs. Rogers, in the inference that Congress is less susceptible to pressure than the President. My experience has been to the contrary.

Mr. MARTIN. Congress does not go very far from public sentiment, does it?

Mr. Sisson. Who knows always what public sentiment is?

Mr. MARTIN. But we try to keep pretty close to it.

Mrs. ROGERS. Anything very flagrant would be known to the entire country.

Mr. Sisson. Of course, this is just a personal opinion of mine. There might be very few, if any, who would agree with me. I think at the time of the World War, probably the instincts of Congress were very nearly right, but Congress was subjected to pressure from various racial groups, as we all know, to all sorts of propaganda—some of which was misleading—

Mrs. ROGERS. Would Congress have approved Mr. Morgan's loan, for instance? That was not known for a long time.

Mr. Sisson. I do not know; I cannot answer that.

The CHAIRMAN. Gentlemen, let Mr. Sisson proceed. We are trying to get through, if we can.

Mr. Sisson. I think that the embargoing of such commodities, however, when so proclaimed by the President, should be mandatory as applied to all the belligerents unless and until the Congress should decide otherwise.

Now, here is one respect in which I am going to suggest a slight change in this bill, or an addition to the bill, rather. I think the President should be required to refer the matter to Congress for such decision if and when a majority of the other nonbelligerent countries have decided that one or more of the belligerents has resorted to war, has adopted an outlawed method of getting what it claims or what it wants, whether in contravention of the Kellogg Pact or otherwise, for the Congress to determine, with the approval of the President, of course, whether we should take action appropriate to this purpose, that the United States should not be a hindrance to means adopted by such other nonbelligerent countries to terminate or lessen the duration of a war.

In other words, as I said a moment ago, I do not believe we should embargo or restrict commodities other than munitions or implements of war, or stretch our necks out in advance of other countries. But I do believe that if and when they have so decided and have applied sanctions, then it should be mandatory upon the President to refer the matter to Congress for its determination, with his approval, as to whether we also should apply sanctions through these quota provisions or otherwise.

Mr. TINKHAM. You believe in what is known as the collective security theory.

Mr. Sisson. Well, I think that is perhaps right.

Mr. TINKHAM. That is the League of Nations idea.

Mr. BLOOM. Is that the only reason why it is bad, Mr. Tinkham?

The CHAIRMAN. Gentlemen, let us proceed.

Mr. Sisson. Yes, I think I believe in that; and if that be treason, make the most of it!

Mr. TINKHAM. May I ask one more question? I do not want to embarrass the gentleman, but I should like to ask this. Were you a believer in the League of Nations?

Mr. Sisson. Well, I will answer that question, although I do not know that it is any more relevant to this discussion than the question whether I was a believer in the virgin birth or the immaculate conception or the immortality of the soul. However, I was a believer in the League of Nations, Mr. Tinkham; yes.

Mr. TINKHAM. Then your position is entirely logical in relation to section 4.

Mr. Sisson. Mr. Chairman, I have a general statement to make regarding the purpose of this legislation, and I shall then speak of an amendment which I wish to suggest to the McReynolds bill, and suggest some few changes which I think should be made in that bill which are commended to me by an examination of the Maverick bill.

In other words, I am considering these two bills as the principal ones before the committee. I think the McReynolds bill will be used as a basis, and I am suggesting a few changes, taken largely out of the Maverick bill.

Mr. Chairman, if I take more time than the committee wishes to allot me, I hope that will be indicated.

The CHAIRMAN. If you will offer your suggestions, that is what we want more than anything else.

Mr. Sisson. The primary purpose of those who have most loyally supported the Neutrality Act has been a desire to keep the United States out of war. This desire by no means includes any belief that America and Americans are totally different from all other peoples and are alone honorable and righteous. Instead, the motivation for isolation has been in the belief that wars are caused by economic forces, and that if America could become economically isolated, one of the chief forces which might bring it into conflict with other nations would be eliminated. The neutrality bills demonstrate that it is impossible and undesirable to isolate America economically in peacetime. The evidence resulting from the investigations of the Nye committee has shown that economic interests which have developed during peacetime themselves are supremely important factors affecting the chances of this country's being involved in war.

For example, Mr. Morgan has testified that at the very outset of the World War his firm was not neutral but favored the Allies. None of the provisions of the neutrality bills, had they been in effect, could have prevented this. Similarly, our leading industries have license and sales agreements with the great industries of foreign nations. The neutrality bills do not propose to cancel these.

Furthermore, the neutrality bills demonstrate that even when war breaks out it is undesirable and impossible for this country completely to isolate itself economically. A policy of cash and carry does not mean the end of world trade. The more than 4 billion dollars worth of American securities now held abroad would fur-

nish an enormous purchasing power for the cash-and-carry trade. Belligerent nations would undoubtedly be able to float loans in other neutral nations which did not have a policy similar to ours and could use the proceeds of such loans to increase their cash purchases in this country. The expansion of commercial credits as distinguished from loans in the security markets, which, apparently, it is undesirable and impossible to cut off, furnish another source of purchasing power.

The refunding of existing war debts would permit some additional increase in purchasing power. The quotas which may be applied to some but not all commodities are almost certain to be, in respect to many important commodities, sufficiently large to permit a significant volume of trade to grow up. It is extremely likely, therefore, that had the neutrality bills been in effect in 1914 America's trade with the Allies would have grown in much the same volume during 1914 and 1915 as it did, and the resultant pressure for relaxation of the ban on foreign use of our security markets would have been equally strong in the latter part of 1915 and 1916.

One of the significant phenomena of the years preceding America's entrance into the World War was the seizing upon individual incidents, such as interference with our trade, submarine atrocities, the Zimmerman note, German spies, and so forth, to inflame public opinion against Germany. The thesis of the isolationists is that it was not these incidents which really were the motivating force for war talk, but that they were seized upon as formal excuses for those in favor of American participation. The present drafts of neutrality bills quite properly attempt to remove as excuses for war propaganda such instances, but there is every reason to believe that other instances can be manufactured if there is a strong economic motivating force favoring participation in war. As we have seen, the neutrality bills cannot entirely stop this important motivating force.

One of the great values of the neutrality bills is their philosophy and notice that as a matter of national policy this country will not fight over the protection of so-called neutral rights. But other instances which may plausibly be used in a new situation as reasons for fighting cannot be foreseen or provided for by legislation in advance. The fact remains that once a major war begins, we are in danger of being drawn into it. Consequently, true neutrality must require not only a renunciation of so-called neutral rights, but an attempt to prevent the outbreak of war, or an attempt to localize or end minor wars which threaten to develop into major conflicts. Insofar as the basic desire of the American people to remain aloof from all social or political contact with other nations and a belief in the divine superiority of Americans, the result is to falsify the basic desire for peace into nationalistic jingoism and chauvinism. These two things, it is clear, are themselves breeders of war, not guarantors of peace. If instead of attempting to quota all exports, our national policy were to refuse to lend economic aid to those threatening war or to those who were responsible for the carrying on of minor local wars, the result would be to further insure peace, not war. There is no need to attempt to set up provisions which automatically will define in any possible situation those nations which are threatening

to bring on a war or are responsible for the continuance of a minor war.

Such an important decision should be a decision for the people to make as represented in Congress. Congress should determine such questions, therefore, only in each individual instance as it arises. That this should be a policy for America in each case that arises will, of course, depend for its effectiveness upon the action taken by other nations.

I recognize that no neutrality legislation and no policy of economic or national isolation can entirely insulate us against the danger of involvement in a foreign war. Furthermore, a neutrality policy which lessens or reduces to the minimum the danger of our involvement in war must always do this, as even this proposed legislation in either the McReynolds bill or the Maverick bill does, at the cost of the loss of trade and profit and consequent unemployment and suffering. As a choice between such loss of unemployment and suffering and war, most of us would choose the former. Our experience has shown, however, how unwilling many of our large business interests are to pay such price. Some effort should be made on our part to help remove the causes of war.

Unquestionably, if the people of every country knew that if their country went to war in contravention of the Kellogg Pact, that the other countries would outlaw such a country to the extent of applying an economic boycott, such people would, so far as they are capable of making themselves felt in their government, resist war measures. If military dictators knew this, they would hesitate before risking their prestige by engaging in an outlawed method of taking what they claim or desire.

This country is not only a signatory to the Kellogg Pact, but also one of the two countries which had most to do in formulating, propounding, and proposing that pact to the other countries of the world. Legislation formulating and directing our foreign policy so important as this should give some recognition to the fact that we have some responsibility as a member of the society of nations. This is so, not only because of our duty to humanity but also because independent self-interest requires the recognition of this fact.

By reason of our duty to humanity and by reason of our purpose to avoid the danger of war for our own people we should declare it to be our policy not to hinder the carrying out of an economic boycott which the other countries may see fit to employ against an outlaw country. This legislation should give recognition to our duty as a signatory to the Kellogg Pact.

The amendment which I mentioned and which I urge this committee to accept as a part of its bill, gives such recognition and is of value as a declaration of our policy in advance to the other countries of the world, and is at least one step in the direction of the prevention of war before its outbreak. This amendment does not give the President any permissive or discretionary power to determine which is the aggressor or offending country; it does not contemplate any action upon our part in the way of any change in embargoes until such action has been taken by other countries. It refers the decision and determination of the questions involved therein to the Congress as the representative of the people. This is an amendment to section 6 of the McReynolds bill and it is as follows:

Strike out the words: "unless the Congress, with the approval of the President, shall declare otherwise," in lines 16 and 17. Insert in the place thereof:

Provided, however, That if a majority of the nonbelligerent countries signatory to the Kellogg Pact shall determine that one or more of the belligerents has been attacked in contravention of the Kellogg Pact, the President shall refer such determination to the Congress for it to decide whether the restrictions applied herein shall be removed with respect to such countries so attacked."

The CHAIRMAN. Will you kindly have that amendment typed out and supply copies to the chairman and members of the committee later?

Mr. Sisson. Yes. I have now a few suggestions in detail which, if the committee wishes, I shall be glad to go into. They are not of the greatest importance.

The CHAIRMAN. We would like to have them.

Mr. Sisson. The other suggestions which I wish to make after a comparison of the two principal bills, the McReynolds bill and the Maverick bill, are the following:

Mr. Bloom (interposing). Would you mind an interruption there? With reference to the suggestion that you just submitted, what would you do if the Congress were not in session? Would you wait 6 months or so?

Mr. Sisson. I have been somewhat in doubt about that, Congressman Bloom, as to whether it should be written into the legislation. Frankly, I did not have time to ascertain whether we have the statutory power to direct the President to call a special session of Congress or not. I am inclined to think, under the Constitution, we cannot do that.

Have you any opinion on that?

The CHAIRMAN. I think you are correct.

Mr. Sisson. If we had the power, I should say he should call Congress into session.

The CHAIRMAN. Otherwise let it go until Congress meets.

Mr. MARTIN. Mr. Chairman, if those other amendments which Mr. Sisson has indicated he wishes to suggest are only minor, why not just present them to the committee instead of reading them now?

The CHAIRMAN. That would be satisfactory unless the gentleman wants to be heard on some of them.

Mr. Sisson. If we might go along here for a few minutes, I think I shall be through with them.

Mr. SHANLEY. I should like to ask a question at this point. What is your vehicle for determining the majority of those who adhere to the Kellogg Pact?

Mr. Sisson. I am not providing any vehicle, if one might be provided. I think whether it was through the League of Nations or whether it was referred to the World Court, or whatever other tribunal it might be referred to, it could be decided in that way.

Mr. SHANLEY. Some of those signatories to the Kellogg Pact are not members of the League of Nations. How would you decide a majority, unless you used some vehicle of voting?

Mr. Sisson. We take no action in the matter. The President is not required to refer, by this amendment, the matter to Congress until the countries have so acted.

Mr. SHANLEY. We have got to take cognizance of it?

Mr. Sisson. Yes; he has to take cognizance of it.

Mr. SHANLEY. And then we total up the individual instances of those countries taking action, and, if they represent a majority, we take cognizance of that.

Mr. Sisson. That is for Congress then to determine.

Now, with reference to the export of arms, ammunition, and implements of war, section 3 of the McReynolds, or section 2 of the Maverick bill.

I note that in section 3, subdivision (a) of the McReynolds bill, the language is used, "upon the outbreak or during the progress of any war * * * the President shall proclaim such fact."

I appreciate the purpose, I think, of the words, "during the progress of any war." However, I think that language is not quite as clear as it should be. It may be somewhat ambiguous, and if we are giving a mandate to the President it ought to be clear and certain in its terms. I think that the question of other countries becoming involved later, to whom the embargo should be applied, is covered in another subsection of your bill, of the same section.

The CHAIRMAN. Yes.

Mr. Sisson. I would recommend, therefore, as the Maverick bill does, the words, "during the progress of any war" be eliminated.

The CHAIRMAN. You are going to get into trouble right there, Mr. Sisson, on that question, "upon the outbreak or during the progress of any war." The question is, When did the war break out? These days we have modern war. They do not declare war. They just go ahead and fight.

Mr. Sisson. I appreciate that they go to war first and tell the other fellow about it afterward.

The CHAIRMAN. Italy has not declared war yet, as I understand, and Japan and China have been fighting for 2 or 3 years, and there has been no declaration of war over there.

Mr. JOHNSON. If it is restricted to the outbreak, that might limit the authority of the President to act subsequent to the outbreak.

Mr. Sisson. I think not. I think it clearly makes it his duty to do this as soon as he determines that war has broken out.

Mr. JOHNSON. That is what we intend to do.

The CHAIRMAN. In this case the President declared a state of war existing between Italy and Ethiopia long before the League of Nations found out that there was a war over there. They appointed a committee to go over and see if there was a war. However, we can discuss the matter of the language in the committee.

Mr. Sisson. I am just making this as a suggestion.

Mr. GRAY. Just this one question. It is provided in there, in regard to other nations becoming involved; we would have to leave that provision in there to include those nations, because we could not—

Mr. Sisson (interposing). That provision Judge McReynolds has covered very well, Congressman Gray; that is, the committee has covered it very well in a subsequent subsection of the same section. That is, when other countries become involved, he shall apply the same embargo to them.

The CHAIRMAN. Proceed, Mr. Sisson.

Mr. Sisson. With respect to quotas, I do not need to point out to this committee, perhaps, that there is a difference as to the basis of the quotas between the McReynolds bill and the Maverick bill.

The McReynolds bill provides, or leaves it discretionary or permissive with the President, to determine the period on which the quota shall be based, to determine what normal trade is. The Maverick bill provides that the quota shall be based upon exports for 5 years preceding the outbreak of the war.

To express a slight preference, I would make that as certain as possible; make it either 5 years or a certain number of years.

The CHAIRMAN. Do you not think it should be 10 years?

Mr. JOHNSON. Five years would bring us into the depression period and perhaps would not be fair.

Mr. Sisson. I am not very bigoted about the number.

The CHAIRMAN. I will say to the gentleman that the State Department had inserted a period of 3 years, which I left out of my bill for that very reason, because I did not think that the last 3 years represented normal trade.

Mr. Sisson. With reference to the section of loans and credits, section 5 of the McReynolds bill and sections 9 and 10 of the Maverick bill, inasmuch as perhaps I am comparing the two bills, I should like to express a preference for the McReynolds bill, which gives the President discretion to make an exemption of commercial credits and short-term obligations. The Maverick bill gives him no such discretion. I think this might be necessary for pending transactions. But loans and credits are prohibited in both bills.

With respect to American vessels as carriers, and so forth, which is in section 7 of the McReynolds bill and section 4 of the Maverick bill, both bills prohibit the carrying of arms or ammunition or implements of war on any American vessel. The Maverick bill also prohibits carrying of other commodities on American vessels which have been quoted, once the quota has been exhausted; or, in other words, in excess of the quota.

So far as I can find, that provision is not contained in your bill, Judge. That is, it does not apply to other commodities.

The CHAIRMAN. I think it is covered, but we can look into that.

Mr. Sisson. If I am correct in my analysis also as to the cash-and-carry provisions, section 9 of the McReynolds bill and section 7 of the Maverick bill, the McReynolds bill vests this in the discretion of the President to proclaim the trade at the risk of our nationals. The Maverick bill makes it mandatory upon the President to proclaim that this shall be at the risk of a foreign government or at the nationals thereof, and further provides that our nationals shall not retain title of goods so shipped. That is in violation of this section and that it seems to me would be desirable. It is directed to the primary purpose to keep us out of the war.

Now, as to travel of American citizens on belligerent vessels, the bills are substantially the same, and I think the provisions are admirable.

As to the use of American ports, sections 11 and 12 of the McReynolds bill and sections 11 and 12 of the Maverick bill, the two bills are also substantially the same. The provisions of the McReynolds bill I think are excellent.

With reference to the use of the American flag, while its use is forbidden by belligerents in the Maverick bill, there is also the provision that if any belligerent is found using the American flag,

our ports shall be closed to such belligerent. I do not find that the McReynolds bill contains such a provision and I think that it should be included.

The CHAIRMAN. That provision is not in this bill. It was in the bill that I introduced in the last session.

Mr. Sisson. Do you not think it ought to be in the bill, Judge?

The CHAIRMAN. I do not know. When it came up for discussion amongst some of us, I suggested leaving it out at present. But I have no objection to including it. We might get a representative of the Navy up here to express their views about it. That was included in the bill in the last session.

Mr. Sisson. I have only one other suggestion. In section 16, subdivision (B) of the McReynolds bill, there is a reaffirmation of American rights, neutral rights, and international law.

The CHAIRMAN. Yes; that is at the top of page 18.

Mr. Sisson. There was some discussion about that yesterday. I agree with Congressman Caldwell that we should not renounce or give up existing rights. That is, we should not proclaim that we are renouncing them or giving them up affirmatively.

Unquestionably, I think the committee would agree with me—I am sure the chairman would; and he is much better versed in international law than I am, and I know he is a better lawyer—if you struck that provision out of the bill, still as a matter of law and international law we would not be renouncing whatever rights were in existence at that time, August 1, 1914, or any other date, that we did not expressly give up.

But I think that this section, while there is nothing vicious about it—and I can see its purpose—might mislead the President under some circumstances. He might view it as a mandate that in order to preserve the freedom of the seas, in order to preserve neutral rights, he would have to adopt the only method that we know from our experience in all the European conflicts in which we have gotten ourselves involved, can be followed; and that goes back to 1796, the little war with France, and 1812, our war with Great Britain, and then our experience in the World War.

We never won a single diplomatic contest with Great Britain or with France over the question of the enforcement of our claim to neutral rights.

It was one of the things—not the only thing, but one of the things—which helped to get us involved in the World War. We did not win out in the War of 1812, and if anybody thinks so, he will have to go back and study American history. We did not win out in that war so far as the objective was concerned. We may have won the war; Jackson licked the British at New Orleans after peace had been declared; but so far as maintaining the freedom of the seas and the rights of seamen, England never gave up at all, and as Congressman Tinkham pointed out here a little while ago—and I agree with him in that respect—Great Britain was continually extending her list of contraband successively right through the time until we got into the war, until practically everything was declared to be contraband.

All those rights are swept away in time of war, unless you want to pay the price of going to war to enforce them.

It being the primary purpose of this legislation to keep us out of war, and it seems to me there being nothing to gain by that notice, I recommend that it be stricken out.

Mr. JOHNSON. May I make this observation? Assistant Secretary of State Moore, when he was before the committee, explained the reason why that provision was inserted. As I recall, he pointed out that this legislation is legislation affecting our own country and our own people and does not affect other countries of the world insofar as it might affect them by reason of the action of our people. That was simply a saving clause to give notice to them that by regulating our own people, as this act does, we were not giving up any of our existing rights.

Mr. Sisson. I understand.

The CHAIRMAN. I should like to say this to you, Mr. Sisson. It is very plain that you have given this subject great study and barring no witness, no one who has been before this committee, expert or otherwise, has kept closer to the bill before the committee or has given us more valuable information than yourself, and I want to congratulate you. [Applause.]

Mr. GRAY. I should like to say that I am in accord with the chairman, because I have gotten more valuable information from the present witness than from any others who have appeared.

I should like to ask a question. If we should assert, declare, claim our rights on the seas, how would you provide against the exercise of those rights when it might involve us in war?

Mr. Sisson. My answer to that is, Mr. Gray, that we gave them up in the World War. We did not succeed in enforcing them. We allowed England and the Allies to have their own way and when Germany could not meet that situation of having even her food supplies cut off by an embargo or a blockade, an offshore blockade, which I think was illegal, although I was very much pro-ally at the time—and Germany then resorted to the only weapon, the only move she had against it, namely, the submarine—that chain of events helped bring us into the war.

Mr. GRAY. You would not advocate our claiming and exercising these rights when it might involve us in war?

Mr. Sisson. I would not.

Mr. GRAY. Then how would you provide against the exercise of those rights if you declared and claimed them?

Mr. Sisson. We would exercise them if we could.

The CHAIRMAN. In other words, you think that it is just one of those things that it is useless to have in there.

Mr. Sisson. I think it is useless.

The CHAIRMAN. According to international law, we would have those rights, anyway?

Mr. Sisson. Yes.

Mr. RICHARDSON. I should like to ask one question, Mr. Chairman. In connection with this declaration of contraband by England during the war being constantly added to, of course, if we wanted to protest that definition of contraband, we would have "to go to the mat", as you might say it.

Mr. Sisson. Yes.

Mr. RICHARDSON. What difference would it make in our position whether we have a quota system or whether we have a free system? England could put those articles on her list of contraband, just the same, even though we had a quota system. It would not affect that side of it at all.

Mr. SISSON. Our quota system would not protect us.

Mr. CALDWELL. Do you believe that in the absence of a reaffirmation of our rights, the logical inference would be that we have abandoned them?

Mr. SISSON. No; I do not. The inference might be, if attention were drawn to it, that we are taking a position that we are not going to involve ourselves in war or contribute to any war for the maintenance of those rights.

Mr. MARTIN. You believe that we have got the rights, but if anybody wants to take them away from us it is all right.

Mr. SISSON. I do not think it is all right, but my position is that I would not go to war over them.

Mr. TINKHAM. Did you read the bill that was issued this summer—I think in August—and approved by the National Peace Conference, published extensively in our newspapers?

Mr. SISSON. I read the bill, Mr. Tinkham, that was prepared by a committee of which Dr. Shotwell was chairman.

Mr. TINKHAM. Dr. James T. Shotwell and Mr. Clyde Eggleston?

Mr. SISSON. I do not know how that committee was selected, Mr. Tinkham, whether they were self-appointed or not.

Mr. TINKHAM. They were backed by the Carnegie Institution?

Mr. SISSON. It was published, as I recall, in the New York Times, and generally in all of the papers.

Mr. TINKHAM. That committee was appointed through the influence of the Carnegie Foundation here.

Mr. SISSON. I think the Carnegie Foundation probably had something to do with it.

Mr. TINKHAM. They financed it, as I understand. Now, my question is this: Did you read that bill sufficiently careful to see a great similarity between section 4 of our bill and section 3 of that bill?

Mr. SISSON. Section 4 of the McReynolds bill?

Mr. TINKHAM. Exactly.

Mr. SISSON. I cannot answer that, because it has been some time since I read it.

Mr. TINKHAM. There is practically a complete similarity between section 4 of the McReynolds bill and section 3 of the Carnegie Foundation bill.

Mr. SISSON. I read that, Mr. Tinkham, because I thought it contained some valuable suggestions and was some contribution.

Mr. TINKHAM. I read it in the same spirit.

Mr. CALDWELL. I should like to ask another question, Mr. Chairman. What would you think of striking from subsection (b) of section 16 the words "and reaffirm" in line 4, which would leave the section as follows:

Except to the extent that the law and rules of neutrality are or may be temporarily or provisionally modified by or under authority of this act, the United States reserves its rights under international law as it existed prior to August 1, 1914.

The CHAIRMAN. In other words, just give them notice that we do not surrender those rights.

Mr. CALDWELL. Do you not think that would be a reservation of our rights?

Mr. SISSON. I think that is a great improvement; yes.

Mr. SHANLEY. In your opinion, do you believe a militant insistence upon the precedents of international law during the World War would have kept us out of that war?

Mr. SISSON. I am sorry, I did not quite get that question.

Mr. SHANLEY. Do you believe that a rigid insistence upon the precedents of international law would have kept us out of the World War?

Mr. SISSON. No; I do not.

Mr. SHANLEY. You think that there are gaps in international law that ought to be supplied by this legislation?

Mr. SISSON. Undoubtedly, but, of course, international law, like any other law—like our law within our own Nation—is not of very much efficacy in bringing about settlement of disputes unless you have an institution which the nations agree they will refer it to. In other words, you cannot have international justice without it being institutional justice.

Mr. SHANLEY. And yet we heard Professor Borchard say that the insistence of little Holland on her rights practically insured her immunity during the war.

Mr. SISSON. She gave up much of her trade, didn't she?

Mr. SHANLEY. She did it through the quota system, yes; but she still retained her neutral rights and got more than other nations similarly situated.

Mr. SISSON. But, you see, our trade greatly increased.

Mr. CHRISTIANSON. What about the Scandinavian countries? Their trade increased enormously.

Mr. SISSON. Governor, I think you raised that question once before—or that suggestion. Personally, I do not know that I would take up the time of the committee with it. I cannot tell you what the answer to it is.

The CHAIRMAN. Gentlemen, let us proceed.

Mr. CALDWELL. May I ask you this question: If Germany had known that upon the breach of our rights we were definitely in the war, do you think Germany would have gone as far as she did? If our position had been less vacillating, if we had written fewer notes, but had said to Germany and convinced Germany that we meant it, that upon the breach of our rights we were in the war, do you think we would have been in the war?

Mr. SISSON. I cannot go along with your premise, so I cannot agree with your conclusion. I do not think that our position, so far as President Wilson was concerned, with respect to Germany, was vacillating.

The CHAIRMAN. If there are no further questions, Mr. Sisson, we thank you very much for your contribution to these hearings.

(Mr. Sisson later submitted the following:)

To the Chairman and members of the Committee on Foreign Affairs:

Since my testimony before your committee, it has been suggested to me that inasmuch as the purpose of my suggested amendment to section 6 of

the McReynolds bill is to bring about that the United States should not be a hindrance to but should rather be in a position to cooperate with collective action on the part of other countries to prevent war, the language of such amendment should be changed to the following:

Strike out the words: "unless the Congress, with the approval of the President, shall declare otherwise", in lines 16 and 17. Insert in the place thereof: "Provided, however, That if a majority of the nonbelligerent countries signatory to the Kellogg Pact shall determine that one or more of the belligerents has made war in contravention of the Kellogg Pact, the President shall bring the facts to the attention of the Congress which, with the approval of the President, may determine that the embargoes, prohibitions, and restrictions may be made applicable to such belligerent or belligerents only."

The CHAIRMAN. Mr. Healey, a Member of Congress from Massachusetts.

STATEMENT OF THE HON. ARTHUR D. HEALEY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MASSACHUSETTS

Mr. HEALEY. Mr. Chairman, your committee has under consideration a matter which is perhaps one of the most important measures which will be discussed and deliberated upon by the present session of Congress. I know that the committee realizes the importance of this matter and is giving it the utmost study, thought, and consideration. I also want to commend for your kindness and courtesy, and, in view of that, I will be as brief as possible.

There are a number of bills before your committee. The one which I will discuss is the so-called administration bill, introduced by your chairman, H. J. Resolution No. 422, and I will confine my remarks particularly to section 4 of that bill.

Section 4 proposes the embargoing of certain articles and materials used in the manufacture of arms, ammunition, and implements of war or in the conduct of war. The articles which this would chiefly ban and which are of great importance to one of the belligerents engaged in war today are oil, cotton, and scrap iron.

I believe it will be freely admitted that the banning of the shipment of these articles will more adversely affect Italy than it will Ethiopia in the present conflict. If that fact is admitted, then I question the wisdom of the enactment of this section of the bill under consideration, House Joint Resolution 422.

It has always been considered that neutrality has followed principles of international law. For a neutral to alter or change its policies once a war is in progress so as to affect unequally one belligerent or another is contrary to accepted practices and precedents of international law and may constitute a hostile or unneutral act toward the belligerent so affected.

Mr. TINKHAM. Has it not been announced by officials of the Italian Government that if we take action to place an embargo on oil Italy would consider it an unneutral act?

Mr. HEALEY. I so understand it. In that connection, I cite the following excerpts from the speech of Senator Bone, delivered in the Senate on August 20, 1935:

A short time ago two of the able and honorable members of the Munitions Committee, the Senator from Missouri, Mr. Clark, and the Senator from North Dakota, Mr. Nye, addressed a letter to the Senator from Nevada, Mr. Pittman, Chairman of the Foreign Relations Committee, calling attention to the very

grave nature of the crisis which was confronting us. This letter was dated August 18, 1915, and I am going to read that letter to my colleagues:

AUGUST 18, 1915.

MY DEAR SENATOR PITTMAN: The subcommittee of which you are chairman has been studying for months the problem of keeping this Nation out of another war. The State Department has studied the subject for a year and a half. The United States Senate Munitions Committee has been considering the problem for over a year. We understand that you are ready to recommend such legislation to Congress this week.

In view of the overwhelming importance to the United States of blocking at this session of Congress the roads which might lead us into war for purely economic reasons, we wish to transmit forthwith for your consideration certain documents recently released to the Munitions Committee by the Department of State.

If Congress imposes no restrictions on munitions sales and shipments before a war breaks out in Europe, it will be impossible for Congress to form a policy later without incurring representations that such a new policy involves the taking of sides against one particular belligerent.

President Wilson saw this very clearly. Only a brief year after the opening of the European war he wrote to Secretary Lansing, August 5, 1915, concerning a change in our policy in regard to the shipment of arms.

I am quoting now the letter which was written by Mr. Wilson:

"* * * Of course, we are arguing only to the special case, and are absolutely unanswerable in our position that these things cannot be done while a war is in progress against the parties to it." * * *

In other words, that is, to change the policy with respect to shipment of munitions. This position was later expressly declared in the well-known note to Germany in 1915, in the course of which the United States stated:

"This government holds—and is constrained to hold in view of the present indisputable doctrines of accepted international law—that any change in its own laws of neutrality during the progress of a war which would unequally affect the relations of the United States with the nations at war would be an unjustifiable departure from the principle of strict neutrality by which it has consistently sought to direct its actions. The placing of an embargo on the trade in arms at the present time would constitute such a change and be a direct violation of the neutrality of the United States."

I digress at this point to call attention to the fact that this statement referred to a change in policy after this Government had committed itself to the unrestrained policy of shipping munitions abroad to belligerents. I now continue with the committee letter to the Senator from Nevada, Mr. Pittman.

"As your committee is aware every embargo after a war is declared affects belligerents unequally. With these official statements before us, it is an inescapable conclusion that the policy of the United States must be fixed before the declaration of a European war or not be fixed at all. In that event we face the definite danger of drifting into another European war as we did before.

"The letter of Secretary of State Lansing to President Wilson of September 6, 1915, will indicate to you the importance of immediate action on the subject of foreign loans and credits.

"As you are aware the Munitions Committee has been studying the financing of munitions sales. In 1915 four of the country's major banks had raised the question of floating foreign loans in the United States to finance the purchase of munitions. The American policy had been expressed repeatedly that the floating of foreign loans to belligerents was unneutral. In 1915 that policy was quietly reversed without discussion in Congress."

It would appear from the above statements made by Senators Clark and Nye and also the position taken by President Wilson in 1915 that the enactment of this section would violate our neutrality toward Italy in the present conflict. Had we included these articles in the neutrality resolution of last session, there perhaps could be no justifiable complaint. But to do so now, in my judgment, would justify a strong protest by Italy and may have the effect of involving us in a war of much more serious dimensions than that one being waged at the present time.

There is no doubt that all the Members of Congress who have offered resolutions of a similar nature to House Joint Resolution 422 are well intentioned and that their primary objectives are to safeguard the peace and neutrality of our country. But it is my opinion that, however well intentioned, if their efforts bear fruit in the passage of a resolution of this nature, we will not have accomplished their aims but may very well effectuate the very result which they have attempted to avert.

During the Seventy-third Congress, a resolution was presented which would have had the effect of placing discretion in the President to determine the aggressor nation and would have given him the power to embargo contraband articles of war against the aggressor. This bill followed most closely certain articles of the League of Nations covenant. Our action under this bill, if Congress had passed it, would have been punitive, and it is likely that by now we would have been joined with other nations comprising the League of Nations in applying sanctions. However, the Congress, during the seventy-third session, refused to pass this measure, undoubtedly recognizing that such action would have the effect of joining us with the League of Nations in its punitive measures.

But the Congress did consider that it was essential, in view of our past experience and in the light of revelations brought out in the munitions inquiry, that it was necessary to take some positive action to assure our neutrality and our own peace and security. In voting for the present neutrality legislation, I believe that the Congress were actuated only by their desire and intention to maintain peace and security and not to make us part of a general scheme to punish one belligerent.

But now, apparently, the League of Nations is waiting for us to take the lead in the application of sanctions toward Italy.

Mr. GILLETTE. You are not still quoting from Senator Bone, are you?

Mr. HEALEY. No.

The CHAIRMAN. I was going to ask about that.

Mr. HEALEY. No; I am sorry I did not indicate that. But now, apparently, the League of Nations is waiting for us to take the lead in the application of sanctions toward Italy. For the application of an embargo on shipments of oil and cotton in particular would undoubtedly be the strongest measures put into effect by any nation to date. The League has not even indicated that it would follow suit in sanctioning oil and cotton. It is, however, ready to let us be the scapegoats and members of the League may well continue to trade with Italy along these lines.

There is unquestionably a greatly preponderant sentiment in this country which is impelled by one great underlying motive only—that we keep out of war and avoid all entanglements which may lead us into war. Therefore, if this bill is being drafted in recognition of that great sentiment, we should avoid any pitfalls which may have the opposite effect of the desire of the American people.

It seems to me therefore that the safest thing for this committee to do in passing a neutrality bill is to confine the embargo to arms, ammunitions, and implements of war—at least with respect to wars now in progress—and not include articles not included in

the legislation now in force. It might be proper and fitting for provision to be made for the embargoing of such other articles on the outbreak of wars not already in progress. However, as I have indicated above, to do so with respect to wars already in progress, would be an unneutral and hostile act to such nation as is adversely affected—particularly Italy.

Concerning loans and credits, I feel that it would be safe to include this section because, in my opinion, the Johnson bill of last year amply takes care of this situation and there is little likelihood of our encountering any difficulties in adding this section to our present neutrality legislation.

I feel that Congress should state specifically the provisions of its neutrality legislation and should not delegate this responsibility to anyone else. The responsibility is ours and we should meet it squarely.

Mr. TINKHAM. I want to ask you one or two questions.

Mr. HEALEY. Yes, sir.

Mr. TINKHAM. Do you believe that section 4 should be made mandatory and not optional with the President?

Mr. HEALEY. I do not think section 4 should be included in the bill at all.

Mr. TINKHAM. You believe it should be mandatory?

Mr. HEALEY. I do not feel that it should be in there.

Mr. TINKHAM. If we should add an amendment to section 4 that it should not apply to a war now going on, would you be satisfied with that?

Mr. HEALEY. That would meet my view.

The CHAIRMAN. I have one question right there. Your position is that section 4 should be left out of the bill entirely?

Mr. HEALEY. It should be left out of the bill or it should be written with an amendment to the section as Congressman Tinkham has just suggested.

The CHAIRMAN. In other words, that amendment is to put an embargo on immediately without any other conditions; is that the amendment?

Mr. HEALEY. No; his amendment is that it should not apply to belligerents who are now engaged in war.

The CHAIRMAN. I understand.

Mr. GRAY. Mr. Witness, would your conclusion not lead you to the position that we should take no action now at all that relates to a war already in progress?

Mr. HEALEY. I think we should continue our present neutrality legislation, but we should not include those articles or commodities which are not already included in the present bill.

Mr. GRAY. But should we initiate any new legislation now under your conclusions?

Mr. HEALEY. As I have expressed it, it is very safe to include a section concerning loans and credits.

Mr. GRAY. Would you say that we should have no bill? Would you go as far as that, Mr. Healey?

Mr. HEALEY. No; I think we should reenact the last bill, but you can also add, of course, that provision which I have just stated

concerning loans and credits, but I do not feel that you ought to include these commodities which I have specified here because it will unequally affect one of the belligerents at the present time engaged in war.

Mr. CHRISTIANSON. To make your position relative to section 4 clear, you have no objection to the retention of that section provided by its terms it is made inapplicable to conditions arising out of wars now existing?

Mr. HEALEY. Yes, sir.

Mr. CHRISTIANSON. And further, that the provision be made mandatory and not discretionary?

Mr. HEALEY. Yes, sir; with those qualifications.

Mr. CHRISTIANSON. With those two qualifications you favor the bill?

Mr. HEALEY. Yes; with those qualifications.

Mr. MARTIN. The condition as it is would bring about war rather than peace?

Mr. HEALEY. Yes.

The CHAIRMAN. What do you mean by mandatory in that section and in the amendment that you suggest?

Mr. HEALEY. I mean that we should specifically enumerate the articles that are to be embargoed and that that should not be left to the discretion of the President.

The CHAIRMAN. That is what you mean?

Mr. HEALEY. Yes.

Mr. TINKHAM. Do you not believe that the embargo should be imposed automatically when a war is declared?

Mr. HEALEY. Yes.

Mr. TINKHAM. That is the gist of it.

Mr. GILLETTE. Amplifying the question that Governor Christianson just asked you, upon the point that the suggested amendment, Congressman, that section 4 do not apply to wars now existing, my question is as determined by whom? Have you in mind any wars that are now existing, and if so, who determines that a condition of war now exists?

Mr. HEALEY. I think that is a matter of common knowledge at the present time that a war is existing.

Mr. KLOEB. Where does it exist?

Mr. GILLETTE. But, you cannot administer acts of Congress by common knowledge.

Mr. HEALEY. I think that it is a matter that Congress can take cognizance of.

Mr. TINKHAM. The President has already taken cognizance of it.

The CHAIRMAN. But you do not want to take cognizance of it.

Mr. GILLETTE. Yes; this is new legislation that we are considering here.

The CHAIRMAN. Mr. Healey, this bill does not provide for giving the President authority to declare an absolute embargo on oils and cotton. It is only over and above their normal trade, in excess of their normal exports from the United States.

Mr. HEALEY. Yes; I realize that.

The CHAIRMAN. Now, how can you defend the idea that for war purposes, if that be true, that there should be no embargo over and

above the normal trade? How can Italy or any other nation take offense when we say we will still furnish you the amount furnished in normal trade?

Mr. HEALEY. Because I think that violates a recognized principle of international law, and would unequally affect one of the belligerents.

The CHAIRMAN. In other words, you are in favor of this Government selling to Italy and Ethiopia all they desire in unlimited quantities and not put it on the basis of the amount furnished in normal trade?

Mr. HEALEY. I am in favor of free trade in those articles to both of the belligerents.

Mr. KLOEB. May I ask the witness if, in his opinion, war now exists between China and Japan?

Mr. HEALEY. Not with the recognized Government of China as such, no.

Mr. KLOEB. Not with the Government of China?

Mr. HEALEY. No.

Mr. TINKHAM. I should like to ask another question. The witness is satisfied with section 5 of the McReynolds bill with reference to loans and credits. He says he is satisfied with it because it is merely a reaffirmation of the Johnson-McReynolds bill of 1933. My memory of that bill is that it applied only to the flotation of loans and not to the extension of credit.

Mr. HEALEY. You may be perfectly right there, in that respect, but my understanding was that it did.

Mr. TINKHAM. But you would still be satisfied with the present section 5 in this bill?

Mr. HEALEY. Yes.

Mr. MARTIN. If there were no war between Italy and Ethiopia at the present time, and if there were no wars in existence today, you would favor section 4, but because this comes now in the midst of a war, having in mind the reading of that letter from President Wilson, you believe it is an unneutral act to change in any way Resolution 67 of the last session of Congress?

Mr. HEALEY. Yes; that is my position.

Mr. MARTIN. Insofar as those nations are concerned?

Mr. HEALEY. Yes.

Mr. MARTIN. Supposing new belligerents come in, would you favor sweeping legislation applying to all of the belligerents as one? That is, section 4 would then be applicable to all of them because a new situation has arisen?

Mr. HEALEY. You mean as to new belligerents, joining the present war?

Mr. MARTIN. Yes.

Mr. HEALEY. Yes; I think so.

Mr. CALDWELL. Do I understand you would then extend section 4 to include Italy and Ethiopia?

Mr. HEALEY. Provided that may be applied to all of them.

Mr. SHANLEY. But you would not apply it to a retroactive condition?

Mr. HEALEY. That is right.

Mr. LAMBETH. After listening to your very interesting statement, I am led to this conclusion: That you favor, in view of the existing

situation merely an extension of the present neutrality act rather than the enactment of a new measure such as this bill now pending before the committee? Is that a fair statement of your views?

Mr. HEALEY. No; it is not exactly a fair statement, because I have said that I think your legislation ought to include the loans and credits, but I do not believe section 4 should be included in the legislation.

The CHAIRMAN. We are very much obliged to you, Mr. Healey, for your statement.

(Whereupon, at 12:05 p. m., a recess was taken until 2 p. m., of the same day.)

AFTER RECESS

(The committee reconvened at 2 p. m., pursuant to the taking of a recess.)

The CHAIRMAN. Is Mr. Sabbatino here?

Mr. SABBATINO. Yes, sir.

STATEMENT OF PETER L. SABBATINO, 70 PINE STREET, NEW YORK CITY

The CHAIRMAN. Give your name, address, history, and so forth.

Mr. SABBATINO. Peter L. Sabbatino, 70 Pine Street, New York City. I am a member of the New York State Bar.

Mr. MARTIN. Do you represent yourself or some organization?

Mr. SABBATINO. I represent myself, and, in a measure, several hundred thousands of Americans, and I might venture to say over a million Americans, whose ancestry goes back to Italy.

Now, gentlemen, I am here to speak without any prepared memoranda. Recently, after reading quotations from Washington's Farewell Address, I thought it might be a good thing actually to read Washington's Farewell Address here, which, as you know, he wrote about 140 years ago. I was surprised to learn how applicable many of the sentiments expressed by George Washington were to this very legislation which is now pending before your committee. I do not pretend to quote verbatim, some of the sentences written by George Washington in that address, but the gist of it was that we, as Americans, should steer clear of European entanglements, and that we, as Americans, should develop a policy not connected with or not dictated by any foreign government. Frankly, as I read Joint Resolution No. 422, which is now before your committee, I asked myself if the British Prime Minister were before you today just what would he suggest to have our country do that is not contained in this resolution.

The CHAIRMAN. Now, right there, I think I can suggest it to you. I think the first thing he would add would be that at the happening of or the declaration of war, that there should be a mandatory provision on embargoes and that should be passed at this time so that we would put an embargo on all materials or supplies of war, without any question or any reservation at all. That is what I think he would suggest.

Mr. SABBATINO. Viewing this resolution, gentlemen, I think the actual effect of it will be the same.

The CHAIRMAN. No; there is not an embargo except on quantities over and above the normal trade, and then it depends upon certain conditions.

Mr. SABBATINO. Yes; but the actual effect will be, Mr. Chairman, to take sides in the present European quarrel.

The CHAIRMAN. How does it take sides?

Mr. SABBATINO. In this sense, as I understand it, from newspaper accounts, Italy gets about 6 percent of its oil supply from this country, and the other 94 percent of its oil supply it must get from other nations in the world. The other nations in the world, or the vast majority of them, are grouped in the League of Nations under the aegis of England. Not so long ago England was for imposing an embargo on oil, and it hesitated because it was afraid that this foreign country would get its oil from America. Now, what would we do? We would step right in.

The CHAIRMAN. Wait a minute, wait a minute, we have not stepped in that far. We give you your normal trade.

Mr. SABBATINO. Yes; but we could not step in to the extent of 94 percent of our supply.

The CHAIRMAN. Ninety-four percent of what?

Mr. SABBATINO. Of our supply of oil, as I pointed out.

The CHAIRMAN. You would still get your 94 percent.

Mr. SABBATINO. Italy gets 6 percent of its oil in this country, but when you step into it to the extent of shutting off the 94 percent that it needs from the outside world, then we are becoming prisoners—

The CHAIRMAN. We do not do that.

Mr. JOHNSON. There is no intention on the part of this committee or of Congress to take sides in any war. On the contrary, that is what we are trying to avoid.

Mr. SABBATINO. Yes; I understand that.

Mr. JOHNSON. You said this would be discriminatory against Italy. They would be entitled to buy the normal supply or the normal purchases over a given period of years. As to Ethiopia, I do not know what the figures are, but I imagine their purchases are very small as compared with those of Italy. They would only be permitted to buy just the same percentage as Italy had on that basis, and Italy would have the advantage in that regard because she buys a great deal more.

Mr. SABBATINO. Yes; I quite agree with you if there were no war now in Europe, but we must view this legislation not from an academic point of view, but its practical effect in the present situation. As Mrs. Rogers, we must view this legislation in its actual effect.

Mr. JOHNSON. That is what we mean to do with reference to the actual effect. Your average purchases and their average purchases would be relative by the same.

The CHAIRMAN. In other words, what you want us to do is to furnish the other 94 percent of the supply?

Mr. SABBATINO. No; I do not.

Mr. CALDWELL. Do you want us to furnish any portion of the other 84 percent of the oil supply?

Mr. SABBATINO. I am not interested in whether a foreign government gets one drop of oil or not, but I do say the policy of

our Government, and the policy of this Committee should be a policy that is really neutral and not merely in name only.

The CHAIRMAN. Do you think that would be neutrality? You have been shown that you get your regular 6 percent here, but if the other countries are going to cut you off, therefore, you think you ought to be able to get the balance of it here. Is that what I am to understand from your statement?

Mr. SABBATINO. Well, Mr. Chairman, may I put it in this way: There was no agitation about any embargo on oil 2 or 3 years ago. This question came up principally when the British Empire sought to crush another nation, and I, for one, as an American, do not believe the United States Government should write an insurance policy for the British Empire, and that is what this resolution amounts to. You may call it a neutrality resolution, but it is an insurance policy for the British Empire.

The CHAIRMAN. No; I do not agree with you.

Mr. SABBATINO. There is no reason why this Government should be taking steps to guarantee the perpetuation of the territories of any nation. There should be no embargoe list. Read again, gentlemen, Washington's Farewell Address where he said we should encourage commerce with all nations.

The CHAIRMAN. You are opposing any embargoes on commodities?

Mr. SABBATINO. Distinctly.

Mr. JOHNSON. What about arms and munitions?

Mr. SABBATINO. Yes; I am in favor of that.

Mr. LAMBETH. But that is as far as you would go?

Mr. SABBATINO. Yes; that is as far as I would go. I am in favor of that, because when it comes to actually using implements of warfare, let the countries that want to fight manufacture their own. If there were no dispute such a measure as this might be all right.

Mr. JOHNSON. The trouble with that is this: There is always some dispute somewhere in the world. If we had to await absolute peace and tranquility throughout the world we could never pass legislation of this kind.

Mr. SABBATINO. Yes; but we picked out a time at which to do something not when it inures to the benefit of America, but when it inures to the benefit of a group of foreign powers.

Mr. CHRISTIANSON. Would you have objected to this provision if it had been embodied in and made a part of the neutrality law, when the neutrality law was passed?

Mr. SABBATINO. I would not, because at that time it would have been the creation of an American policy, but when you do it now, Mr. Chairman, it is not.

The CHAIRMAN. War was going on at that time, Mr. Sabbatino.

Mr. SABBATINO. No; not until October.

Mr. TINKHAM. There was no war going on then.

Mr. SABBATINO. There was none. Certainly I am not the only one that shares this opinion. There are millions of people throughout this country that share this same opinion. I read a dispatch from the Associated Press the other day stating that the White House was receiving from 500 to 1,000 letters of protest each day from people throughout this country, but I daresay that the White House, in fact, is receiving not from 500 to 1,000, but maybe up to 10,000 letters of protest a day.

Mr. GILLETTE. I am probably at fault, because I came in a little late, but when I came in did I understand you to say that Italy obtained 6 percent of her oil supply from this country?

Mr. SABBATINO. Yes; so I understand from newspaper accounts. If we now adopt this resolution empowering the President to list certain other commodities as being means useful in the manufacture of war materials, and so forth, we all know, if we are going to use our common sense, from an understanding of the Presidential psychology, that he will list oil on the embargo list.

Mr. GILLETTE. Just let me ask you this question, in addition to understanding your position:

By what process of reasoning do you think that if we withdrew or lowered our 6 percent of oil that is allowed under this legislation, if passed, that it will automatically deprive Italy of the other 94 percent?

Mr. SABBATINO. In this sense, because Great Britain has, up to the present time, not induced the League of Nations to put oil on the embargo list, because Great Britain felt that this foreign government would get its oil supply from America, and, therefore, Great Britain has held off until your committee, and until our Congress passed this resolution, and then, like clockwork, you will find Geneva putting oil on the embargo list, and our President putting oil on the embargo list, and if that is not partiality then I do not know what partiality is.

Mr. GILLETTE. Then your objection, Mr. Sabbatino, is not to any action that we take but the indirect result that may come from that action?

Mr. SABBATINO. The actual effect of it.

Mr. GILLETTE. By some action of England after we act here?

Mr. SABBATINO. Exactly.

Mr. GILLETTE. But you have no objection to our taking the action contemplated by this bill?

Mr. SABBATINO. Well, I have got to view the situation as a person of some intelligence. I have got to know that when you put hydrogen and oxygen together in certain quantities that water will result.

Mr. GILLETTE. It is the indirect result of it that you object to?

Mr. SABBATINO. You might say the direct result of this legislation.

Mr. GRAY. Mr. Witness, wouldn't you think no matter what embargo we might agree upon in an act here, its operation would affect different belligerents in different ways? No matter what kind of an embargo we place on commodities it will affect, in different wars, different belligerents in different ways?

Mr. SABBATINO. Certainly, and America, with 120,000,000 people, at least, must live on after this resolution is adopted.

Mr. GRAY. But, do you want us to make an inquiry before we enforce an embargo as to how it is going to affect this nation or that nation? Wouldn't that be a dangerous policy?

Mr. SABBATINO. It would.

Mr. GRAY. We are not responsible for that. That is dependent upon their lack of facilities or otherwise.

Mr. SABBATINO. Yes; but now we see the effect of this very resolution. We are all Americans and we are all interested in America first and all the time, and any other country receives secondary consideration.

Mr. GRAY. Yes; but are we responsible for such an embargo affecting Italy more adversely than the other side? Are we responsible for that?

Mr. SABBATINO. We are responsible if we adopt such a policy.

Mr. GRAY. Yes; but this applies to all belligerents. We are not singling out these people, trying to anticipate its effect upon this belligerent or that belligerent. We are making a general policy, and we are not responsible whether it affects one belligerent more adversely than the other, are we?

Mr. SABBATINO. If there could be some provision put into the law, as suggested by another speaker, not to make this legislation applicable to the present war, then we would be neutral.

Mr. GRAY. We are not responsible for the present war or any of the conditions of the present war. Do you want us to single out and make inquiry and investigation to ascertain how this is going to affect this or that belligerent? Isn't the proper way for us to do to make a general embargo and let its effect be what it will be?

Mr. RICHARDSON. But we do know now it would affect one nation more than another.

Mr. SABBATINO. Yes, sir; we do. We are not dealing with a hypothetical problem but with an actual problem.

Mr. GRAY. Wouldn't that be true of every embargo, with regard to all belligerents?

Mr. SABBATINO. But, Mr. Gray, if we pass future legislation which has no direct effect upon a pending controversy, then we cannot be charged with partiality, and there is not anyone who reads the daily newspapers or the daily reports who cannot see it. Here is the Times before me, "Britain to support oil ban to Italy."

Why is it that England did nothing for the past few weeks? Because it knows that right in this room you are considering this legislation. I know that England must have at its disposal millions of dollars that would get us into war in the case and possibly spending millions of dollars by fogging the issue with this so-called propaganda.

The CHAIRMAN. I do not know of anything which would be more foreign to any policy of this committee or the chairman of this committee than trying to write up a neutrality bill, making it apply under this bill with partiality to one nation as against another. I resent the idea when you say that the bill was really for the purpose, as I understand you to say, of really doing a great injustice to Italy.

Mr. SABBATINO. No; that is not the object of it. I know that we are all interested in getting something on the statutes which is of benefit to our country.

The CHAIRMAN. There are other bills in here that would absolutely declare an embargo on everything, and oil would be one of them, an embargo to stop it all. Your committee is trying to be fair in writing this bill, giving certain conditions under which the President should issue these things, feeling that that is the only safe way in which to do it. We have put in here ordinary and natural trade. There is no year specified in this bill. At first it was 3 years, but I am frank to say to you that the chairman of this committee insisted when the draft was made that that be taken out, because I thought

it would strike the lean years and not get those where we had more trade, and we would have to go back for many years for the good trade as well as the bad. We felt in drafting this bill that no nation could object to that, that we still permitted them to get their normal trade from this country. That was the idea of the bill.

I want to say, further, that quite a prominent gentleman, who is as much interested in this as you are, because he is of Italian descent, quite a prominent judge from New York, was down here the other day, and he had views like yours, but after reading this and explaining it to him he thought it was fine, that no one could object to this kind of legislation. Your argument along this line is just this: We are giving you, and you have just what you have been getting, and you are afraid other nations will cut you off.

Mr. SABBATINO. Mr. Chairman, suppose after your committee recommends this resolution in its present form, Congress adopts it, the Senate adopts it, and the President approves it, and within a week after its adoption, the League of Nations places an embargo on oils—

Mr. KLOEB. Don't you understand that the League of Nations is to meet on Monday for the purpose of acting definitely on that question?

Mr. SABBATINO. I know it is going to meet soon.

Mr. KLOEB. There is not any possibility of this committee acting on this before Monday, let alone for the passage of the law.

Mr. SABBATINO. Well, they can wait a few months.

Mr. KLOEB. In my judgment, it will be a month or 2 months before it can be passed.

Mr. SABBATINO. They can wait a month or 2 months. But, there seems to be a coincidence of events here. If a month from now the League of Nations has put the oil ban on, and the judge is a lawyer, is there any lawyer who could address any body of men who could say that one action was not practically the direct result of the other. Then instead of limiting conflict, instead of limiting warfare, instead of creating peace, we are creating a war situation.

Mr. TINKHAM. I should like to ask another question. Did not Premier Laval about 2 or 3 weeks ago, when he was defending his position in the Italo-Ethiopian controversy, and Mr. Reynaud, who is of the opposition, both state that until America took action in relation to oil the League of Nations would not act?

Mr. SABBATINO. Yes; that is true.

The CHAIRMAN. They expect an embargo, don't they?

Mr. SABBATINO. What is an embargo when a nation can get only 6 percent of its oil out of 100.

Mr. CHRISTIANSON. If I understand you, your position is this: That although Italy has received only 6 percent of her petroleum requirements from the United States, she has, at all times, under treaties existing under international law, had the right to buy any amount of her requirements up to 100 percent of all her oil in the United States?

Mr. SABBATINO. Yes; absolutely.

Mr. CHRISTIANSON. And the enactment of this legislation now interferes with the rights she had prior to this enactment?

Mr. SABBATINO. Absolutely.

Mr. CHRISTIANSON? And the instant that this legislation is passed, when there is a war on, when this Government must be charged with knowledge of the fact that its action would affect that war, that would involve us in unneutral acts? Is there your position?

Mr. SABBATINO. That is our position; yes. That is clearly and beautifully summarized, and with that summary, Mr. Chairman, I want to thank you for the privilege of having permitted me to address you.

The CHAIRMAN. Thank you. We are glad to have had you with us.

The CHAIRMAN. Judge Frank Leverone.

STATEMENT OF HON. FRANK LEVERONE, BOSTON, MASS., A MEMBER OF THE EXECUTIVE COMMITTEE OF THE LEAGUE FOR AMERICAN NEUTRALITY

The CHAIRMAN. Please give your name and whom you represent.

Mr. LEVERONE. Frank Leverone, Boston, Mass., representing the League for American Neutrality.

The CHAIRMAN. Are you on the bench, Judge?

Mr. LEVERONE. Yes.

Mr. CALDWELL. Are you on the bench at this time?

Mr. LEVERONE. Yes.

Mr. GRAY. Are you in office at this time, Judge?

Mr. LEVERONE. Yes, I am still sitting as Judge, and have been for 28 years.

The CHAIRMAN. We will be glad to hear from you.

Mr. LEVERONE. I represent the League for American Neutrality, and I am one of the committee of that association.

Mr. BLOOM. Are you an officer of that committee?

Mr. LEVERONE. I am simply a member of the executive committee, if you please.

The CHAIRMAN. Proceed, Judge.

Mr. LEVERONE. I have here in typed form a small set of ideas which I thought I would put down on paper so that I won't be rambling all over the lot in making my statement.

The CHAIRMAN. All right.

Mr. LEVERONE. The proposed neutrality policy is based on the theory that another general war is likely to break out, that the United States can do nothing substantial to prevent it, that at all costs the United States must refuse to be drawn into it. There can be no doubt that this determination to stay out of another European war is shared by the overwhelming majority of the people.

Mr. LAMBETH. Will you repeat the statement that you have just read?

Mr. LEVERONE. Yes. The proposed neutrality policy is based on the theory that another general war is likely to break out, that the United States can do nothing substantial to prevent it, that at all costs the United States must refuse to be drawn into it. There can be no doubt that this determination to stay out of another European war is shared by the overwhelming majority of the people.

Mr. LAMBETH. Thank you.

Mr. LEVERONE. The only question, then, is whether Congress is considering a sound policy.

It seems to me that there is enough law combined in international law sufficient to provide for all the needs to protect this country from becoming entangled in any future war. The first neutrality law went into effect in 1794, and later was amended in 1818 and is now title 67 of the United States Compiled Statutes. These neutrality regulations have been sufficient to protect us in the past, and no doubt would be sufficient to take care of us in the future. In addition, to this neutrality statute, the provisions and regulations of international law are also ample to provide for the regulations between neutrals and belligerents.

In times of peace it is easy to accord preference and to remain on friendly terms with less favored nations, but during war privileges tending to strengthen the hand of one of the two belligerents help him toward the destruction of his enemy. To grant these is not merely to show less friendship to one than to the other. It is to embarrass one, but reserving for the other a field of action in which his enemy cannot attack him. It is to assume a passive hostility.

If, therefore, a people desires not to be the enemy of either belligerent its amity must be colorless in the eyes of both; in its corporate capacity, as a state it must abstain altogether from mixing itself up into the quarrel. The duties of a neutral state are identical with those of a state in time of universal peace.

With these observations, let me come to the discussion of Senate bill no. 8474, entitled "Neutrality Act of 1936", which, I understand, is your bill, Judge McReynolds. I think I will just hurriedly pass along and make some comments along the same line that Mr. Sisson did this morning.

The CHAIRMAN. That is all right.

Mr. LEVERONE. This act is somewhat predicated on the Public Resolution No. 67 of the Seventy-fourth Congress approved August 31, 1935. We believe, in the very first instance, that there should be no enlargement of this last resolution. We believe that this resolution is ample, full, and specific, sufficient to provide for all needs in case of war.

Now, as to section 3 (a) that should remain as it is written with the exception that the words "as proclaimed by the President on September 25th", should be added to that.

The CHAIRMAN. Where is that?

Mr. BLOOM. He is reading from the Senate bill.

The CHAIRMAN. The same bill?

Mr. LEVERONE. Yes; it is.

Mr. CALDWELL. Is it identical?

Mr. LEVERONE. Yes; it is.

The CHAIRMAN. What would you suggest, Judge? What do you suggest as to that?

Mr. LEVERONE. The words "as proclaimed by the President on September 25" should be added.

The CHAIRMAN. Where does that come in?

Mr. LEVERONE. At the very end of the paragraph.

The CHAIRMAN. Of section (a)?

Mr. LEVERONE. Yes, sir; section (a).

The CHAIRMAN. As what?

Mr. LEVERONE. "As proclaimed by the President on September 25."

The CHAIRMAN. All right.

Mr. LEVERONE. I would omit section (b).

Mr. CALDWELL. Admit or omit?

Mr. LEVERONE. Omit.

Mr. LAMBETH. You are now in section 3, subsection (b).

Mr. LEVERONE. Yes, I would eliminate (b).

Mr. LAMBETH. You mean at that point you intend to say the President shall not have the power to name and enumerate the articles that are and constitute implements of war?

Mr. LEVERONE. This committee should fix or enumerate the arms, ammunition, and implements of war, not the President.

The CHAIRMAN. All right.

Mr. LEVERONE. The same applies to (c).

Mr. SHANLEY. That is covered by our treaty with Italy.

Mr. LEVERONE. Yes.

Mr. SHANLEY. Where they set out what is contraband of war.

Mr. LEVERONE. That is what I was coming to. That is all covered by the act of August 31, 1935, which expires in February, and coming down to the problem in its simplest form, I will say that the present act now in operation should be extended in toto.

The CHAIRMAN. Not have any new act?

Mr. LEVERONE. Not have any new act.

Mr. SHANLEY. You agree with what Congressman Healey said this morning?

Mr. LEVERONE. If he says so, I agree with him.

The CHAIRMAN. He says just strike out the limitation and leave the act.

Mr. LEVERONE. Leave the act.

Section 4 and the much-discussed section 4 (a) should be stricken out.

The CHAIRMAN. You would strike it out?

Mr. LEVERONE. It should be stricken out.

Mr. CHRISTIANSON. Would you have any objection to going further than we went in the act of August 1935, if we provided that the additional requirements and provisions should be inapplicable to any war now existing?

Mr. LEVERONE. I would agree with that.

Mr. MARTIN. You would have no objection to that?

Mr. LEVERONE. No, not at all, sir. In a sense, such legislation would be ex post facto, so that I would perfectly agree with it.

The CHAIRMAN. That might bring on a further question, and do not keep in mind just the war between Ethiopia and Italy; isn't there a war going on over in China between China and Japan?

Mr. LEVERONE. Well, the means of ascertaining what is going on over there is open to the world, but we do not get very much except once in a while—

The CHAIRMAN. But, from the argument that is being made here that there is a war—

Mr. LEVERONE. As a matter of fact, the League of Nations do not know there is.

The CHAIRMAN. I am speaking about Italy.

Mr. LEVERONE. There is actual war going on because this country has taken cognizance of it, and this country has not taken cognizance of any war between Japan and China.

Mr. CHRISTIANSON. Will you answer a question on that?

Mr. LEVERONE. I will try to.

Mr. CHRISTIANSON. Do you think the League of Nations will ever check a war anywhere in the world in which the powers that dominate the League are not interested?

Mr. LEVERONE. For the preservation of those who have as against those who have not. That is the value of it.

The CHAIRMAN. Is there a war going on between part of the League of Nations and Italy?

Mr. LEVERONE. If you call sanctions acts of war, yes.

The CHAIRMAN. Then if we exclude any other wars we might have to exclude all those people and wait until they get through fighting?

Mr. LEVERONE. Yes.

Mr. MARTIN. Your theory is that the United States is trying to keep out of war, that there is not any danger of its being involved under present conditions. Therefore, you might be reconciled to accept it for the future, not the present.

Mr. LEVERONE. I do not see how it is possible for this country to possibly be involved in the colonial expedition which is now going on in Ethiopia. They have no ships on the water, and they have no submarines to contend with, and it is all localized, we having no interest in Africa in any way, shape, or manner, and I do not see why we should provide for that particular war.

The CHAIRMAN. As to section 4, then, if it should not provide for any wars going on now, would it be satisfactory?

Mr. LEVERONE. Yes.

Mr. KLOEB. Suppose a war going on now should spread, and become a so-called World War, involving numerous powers, would you still have this act held in suspension until such time as that war was over?

Mr. LEVERONE. Oh, no; if you have other nations engaging in war, then I would say the act should take its course.

Mr. KLOEB. Your theory is that just so long as the present two countries are at war—

The CHAIRMAN. Actual war—

Mr. KLOEB. So long as the present countries are at war it should be held in suspension?

Mr. LEVERONE. Yes.

The CHAIRMAN. But if any other countries become involved in it, then it should apply to all?

Mr. LEVERONE. Yes.

Mr. MARTIN. They come in then with knowledge of this statute existing?

Mr. LEVERONE. Yes; with knowledge of it. They are put no notice.

Mr. LAMBETH. I understood you a moment ago to designate the present difficulty in Africa between Italy and Ethiopia as a colonial enterprise. Is that correct?

Mr. LEVERONE. Yes.

Mr. GRAY. Why did you use the word "colonial"? What is the import you place on that?

Mr. LEVERONE. My definition is this: It is just the same as when we went into Mexico to punish Mexico for depredations which were committed against American citizens. Likewise, Italy in going into

Ethiopia, it is to punish Ethiopia for depredations which have been committed against Italian citizens and property. Ninety-two depredations were committed on consulates, families, and individuals and property, and there has been no stability, no certainty of life or property, and that is the main reason for the sending in of the forces by the Fascist Government into Ethiopia.

Mr. GRAY. You consider the word "colonial" as describing that condition?

Mr. LEVERONE. Yes; I do.

Mr. GILLETTE. Mr. Chairman, I do not know that I understood the Judge just a moment ago. I think the question was asked him as to whether or not if an exception be made to this section which would exempt it from applying it to belligerents who are now engaged in war it would be satisfactory to him. You would have no objection to it?

Mr. LEVERONE. That is right.

Mr. GILLETTE. Then, the additional question was asked that if other nations became involved, for instance, if a third nation was thrown into the conflict on one side or the other, that he thought then it automatically should apply?

Mr. LEVERONE. I think so, yes.

Mr. GILLETTE. Do you mean apply to that nation, or to all of the nations, Ethiopia and Italy?

Mr. LEVERONE. That is the question, whether it should still come into play with the present two contestants, or whether it should come into play on the three of them together.

Mr. GILLETTE. You certainly would not want to be placed in the position of saying that in the event that England, France, or any other nation should become involved in this war over there we should apply against them the embargo on oil and other resources, but should continue to allow Ethiopia and Italy, which, of course, means Italy, to continue to get it?

Mr. LEVERONE. No.

Mr. GILLETTE. Then, you do not mean that it should be applied unless it were applied to all of them that were involved?

Mr. LEVERONE. Yes; exactly.

Mr. BLOOM. How could that be done in your idea, Judge, where you exempt them up to the present time, as regards Italy and Ethiopia, and if another nation should enter the war on one side or the other? How could you in this act, or under your amendment to this act, apply that to these two nations?

Mr. LEVERONE. By adding the necessary words to cover that.

Mr. BLOOM. That is what I wanted to know, but you did not say that.

Mr. LEVERONE. Yes.

Mr. BLOOM. Then the act should be amended to mean just the thought that you intend to convey.

Mr. LEVERONE. Exactly.

The CHAIRMAN. That this section shall not apply to the two countries now engaged in war, but on other countries becoming involved, then it will apply to all alike?

Mr. LEVERONE. Yes.

The CHAIRMAN. That is what you mean?

Mr. LEVERONE. Yes; by putting it in complete.

Still, under section 4, article (b), "The President shall, by proclamation, definitely enumerate the articles or materials the exportation of which is to be restricted." I say that should be cut out.

The CHAIRMAN. Why do you think so?

Mr. LEVERONE. Because I still think the President should not by proclamation enumerate the articles.

The CHAIRMAN. You mean we should enumerate them in the bill?

Mr. LEVERONE. Yes; enumerate them in the bill, definitely fixed and definitely established.

The CHAIRMAN. Do you know how many articles were considered contraband by the English during this last war?

Mr. LEVERONE. I know as a matter of law, international law, that treaty rights during the last war were considered as but mere scraps of paper.

The CHAIRMAN. I know that.

Mr. LEVERONE. Therefore, I do not think we ought to take that as a fair sample to guide us.

The CHAIRMAN. If we undertook to enumerate those under our neutrality policy, that it should only include these articles there, and other nations became involved, and they established contraband against other articles, don't you think we would be in trouble?

Mr. LEVERONE. I have here an article on Neutrality and Executive Discretion.

The CHAIRMAN. By whom?

Mr. LEVERONE. It is a very long article, and I do not know whether you want to take the time to have me read it or not.

Mr. BLOOM. Who is it by?

Mr. LEVERONE. James H. Powers, an editorial writer on the Boston Globe. It is too long to read, but I would like to leave it with you.

Mr. BLOOM. Under what date?

Mr. LEVERONE. It was published yesterday.

Mr. BLOOM. Mr. Chairman, without objection, I would request that that article be inserted in the record.

The CHAIRMAN. Insert it in the record.

Mr. LEVERONE. Yes.

(The article referred to is as follows:)

NEUTRALITY AND EXECUTIVE DISCRETION

BY JAMES H. POWERS

The hearings before the Senate Munitions Committee at Washington have produced much controversy, but they have sufficed to limn one fact in letters of fire: that a very few men—not more than half a dozen and, eventually, the President of the United States alone—made the decision with reference to war loans and Allied war supplies purchases, which committed the United States, with almost mathematical certainty, to the side of the Entente Cordiale before the autumn of 1915 had arrived.

The sensational documents produced last week from the archives of the Treasury, from the files of the State Department, and from the vaults of the bankers, disclose beyond peradventure that this was so. They reveal that the opposition of Bryan, so long as he held the ear of the President, thwarted the wishes of Allied belligerents and their American fiscal agents as to flotation of loans in this country. They indicate that the retirement of Bryan produced a change in attitude among the advisors of the President. They make it plain that pressures, originating in the fields of finance and industry through Allied demands for war supplies, finally snared Woodrow Wilson in a

dilemma from which, in desperation, he sought to extricate himself by formulating a decision, unbeknownst to the American public at large, in which he yielded to the desires of the fiscal agents of Great Britain in this country. They show, finally, that a sharp manipulation of the pound sterling by the British Government and its agent here, preceded by a few days the reluctant decision of the President, and that the effect of this manipulation—whatever its avowed purpose or technical excuse might have been—was to emphasize upon the President's attention the fact that unless he pursued a course desired by the British this Nation would face a severe crisis of economic dislocation, unemployment, bankruptcies, and chaotic confusion.

So far, the facts are clear. Less clear is the issue of individual responsibilities and group responsibilities for the situation and its results, but that issue need not detain one who recognizes in it a fundamental question touching the structure of our social-economic system. The important point for present purposes is the lesson the whole affair teaches with reference to neutrality policy.

Our country is striving at the present moment, in public debate and in congressional discussion, to formulate a neutrality policy which will replace the mandatory law now operative, because that law expires at the close of next month. It is well worth notice that in 1915, a decision of the President of the United States (that is, of one man) under intolerable coercions of contrived circumstance, proved effective in setting a course which led this Nation into the war.

Do we desire a repetition of the story in the next foreign brawl?

There are two proposals before the Congress for neutrality legislation. One of these has the support of the Administration, the other has the backing of a majority of the Senate. One is expressive of the policy desired by Secretary of State Hull. The other sets forth the attitude of the Nye committee.

It would be foolish to claim for either of these bills categorical perfection, or to assume that one represents the whole of wisdom and the other none at all. In many particulars the proponents of both are in agreement—as for instance that there should be a flat embargo on arms, ammunition, and implements of war and that this embargo should be imposed upon all belligerents.

Again, both seek to supplement this primary embargo, which is aimed at the munitions industry, with a secondary embargo which would cover a specific list of raw materials essential to modern war—cotton, steel and iron, coal, oil and gasoline, copper, and the like. This second embargo list would be partial. That is, it would be framed in such fashion as to permit in war times a normal peacetime volume of trade, while at the same time prohibiting distortion of that normal volume for war purposes. This embargo is aimed at industry generally. Its purpose is to prevent the building up of vested industrial interests in foreign wars. Finally, one of the pending proposals would apply an embargo on commercial credits and loans, to supplement the above two embargoes, and this plan will doubtless appear in the other pending bill shortly through amendment.

The basic difference between the two bills lies in this that the one which expresses the desires of the administration would give to the President a power of discretion as to the application of the embargoes, whereas the bill favored by the Senate committee would make it mandatory upon the President to apply the embargoes without discrimination upon each and every nation involved in the war.

Thus, if the proposal favored by the administration should become law, a President could clap the embargoes on one side, and not on the other, should he feel that this course might better protect the interests of the United States. In support of this idea, its spokesmen point out that a certain amount of flexibility is desirable in so important a policy. Wars are notoriously rife with unexpected developments. Elbow room is very desirable as a safeguard against unforeseen contingencies. It might, for instance, be embarrassing, if the great majority of the League of Nations voted some country an aggressor, and the United States remained committed to a policy that tended to fetch us into collision with the League under such circumstances.

Reduced to elementary terms, this argument means that the administration school of thought wants a neutrality act flexible enough to permit the President of the United States to repeat the performance of President Woodrow Wilson in 1915. It is an argument which urges that the Executive be granted discretionary power to put an end to our neutrality when and as he may deem this

proper, or when and as circumstances may be contrived, by foreign nations and their agents in this country, to overwhelm him with coercive operations.

The assumed purpose of a neutrality act is neutrality. The proposal that discretionary power be granted by Congress to the President in the forthcoming neutrality act is in fundamental contradiction with the main purpose of the act itself. No act, framed to include such discretionary power, will ever safeguard American neutrality. That neutrality cannot be preserved by authorizing a President with reference to embargoes, to choose sides, to make decisions not properly his to make, and to throw the powerful influence of the United States into the balances of war in order to weight a preferred outcome for the conflict.

It is impossible to be neutral and, at the same time, to allow public policy to follow choices and preferences among belligerents. Such policy immediately invites every sort of calculated stratagem employed to our detriment between 1914-17. It places a premium upon propaganda from abroad. It makes the Executive the victim of intolerable forces. It is, furthermore, a policy violative of the Constitution of the United States.

If the President is permitted, for whatever reasons, at a given moment to raise an embargo for one nation or group of nations and to maintain it against another, he is in plain fact bringing this nation into a war on a preferred side. The power to do that resides with the Congress, not with the President.

Wise policy, in respect to any embargoes, would seem to be to make them both mandatory and nondiscriminatory, to make them apply to every belligerent regardless of our likes and dislikes of causes as governments involved may attempt to make them appear. Would it not satisfy the desire of the State Department for flexibility, if, in addition to a policy of mandatory, nondiscriminatory embargoes, the new law authorized the President to present to the Congress for its decision, any facts which at any time seemed to him to warrant the lifting of these trade prohibitions?

That would preserve to Congress its prerogatives as to declarations of war. It would fortify the Executive against insidious pressures. It would make secret decision impossible. It would deflate much propaganda in advance. And it would strengthen the prospects for real neutrality.

Mr. LEVERONE. It is the clearest statement I have read bearing on the question of whether or not the President should receive from this committee or from legislation authority to list the nature of articles or materials for exportation.

The CHAIRMAN. We would be in a bad way up here trying to enumerate all of them.

Mr. LAMBETH. You mean the substance of that article is that the President should have no discretionary authority?

Mr. LEVERONE. Yes; that is the article.

As to the financial transactions, I have no complaint to make of that. I have no complaint to make on the equal application of embargoes. I have no complaint with regard to American vessels prohibited from carrying arms. Nor have I any complaint to make on transactions with belligerents. As to travel by American nationals on belligerent vessels:

Whenever the President shall have issued his proclamation [as provided for in section 2 of this act], thereafter no national of the United States shall travel on any vessel of any belligerent nation except at his own risk, unless in accordance with such rules and regulations as the President shall prescribe. No passport issued by the Secretary of State or anyone acting under his authority shall be valid for use by any person for travel from the United States on any such vessel.

Now, I quote this as an illustration of how unfair this act acts upon Italy alone. Italy has the third largest list of steamers in the world, whereas Ethiopia has none at all.

The CHAIRMAN. We were trying to keep them off of belligerent vessels. We did not take into consideration, of course, what countries were involved as a general policy. You will notice that the

passport is not good for travel out of this country. We were fearful that some citizen might be in a foreign country in time of war, and when it came this is to give him a chance to get home.

Mr. LEVERONE. But, you see the unreasonableness of such a restriction.

The CHAIRMAN. I see your point.

Mr. LEVERONE. Yes; and I believe that should not be made a part of the act.

As to (b) and (c) of that section there is no objection.

As to section 11, Use of American Ports as Base of Supply, there is no objection.

As to submarines, section 12, there is no objection. As to the National Munitions Control Board, there is no objection except that in section 13, article (b), we still have the same proposition:

The President is hereby authorized to proclaim, upon recommendation of the Board from time to time, a list of articles which shall be considered arms, ammunition, and implements of war for the purposes of this section.

The CHAIRMAN. We have a Board created. That is the law at the present time.

Mr. LEVERONE. I am not going to say very much about that. As to section 16, Modification or Termination of Treaties, as an actual fact today there is a treaty, a neutrality treaty between the United States and Italy, the Treaty of 1871. By that treaty the articles embargoed are minutely set forth. By this act, attempt would be made to amend or terminate such treaty. I merely call that to your attention because I think Italy is one of the few countries that has a neutrality treaty with the United States.

Mr. BLOOM. You mean it would be amended or terminated by the proposed legislation?

Mr. LEVERONE. Yes, by the proposed legislation. Now, that covers my comments on the bill.

The CHAIRMAN. Now, may I ask you this, Judge: Frankly, the only trouble with this bill, as you see it, is a few minor objections, but the main trouble is section 4. If you were writing a bill you would strike out section 4?

Mr. LEVERONE. Yes, I would.

The CHAIRMAN. But if we leave it in, it would be all right, to leave it in, as it is, if it did not apply to the two present belligerents, and make it apply to all nations, if other nations get into war?

Mr. LEVERONE. That is right.

The CHAIRMAN. That is a summary of your statement?

Mr. LEVERONE. Yes. I am firmly of the opinion that whatever legislation may be recommended should be simple and specific, to contain an embargo on arms, ammunitions, and implements of war, loss of citizenship of Americans who enlist in foreign armies, closing the United States ports as a base to belligerent nations' vessels and barring ports to merchant ships of belligerent nations as well as to submarines. However, all these are provided for in the neutrality statute set forth in United States Compiled Statute, title 57, page 3599.

The CHAIRMAN. The regulations that are in here?

Mr. LEVERONE. No; the regulations which I have just quoted. There is, therefore, no reason why there should be any changes in the established rules of international law which as applied by in-

formed and neutral administration is quite adequate to preserve the neutrality of the United States and I also feel that with resolution no. 67 of the Seventy-fourth Congress there were adopted additional laws which in my mind is more than ample to provide for the regulation of neutrality between the United States and any warring country.

Now, the League for American Neutrality, Mrs. Rogers, and gentlemen of the committee, is a Nation-wide movement, as evidenced by the fact that we have here representatives from different States of the Union who have volunteered to come here at their own expense, representatives who are all citizens of this country. They have met together, and they have drawn up a declaration of principles, and they have set forth what, in their judgment, should be real neutrality, and I have a list here of the names of the members. I would like to leave this with your committee.

The CHAIRMAN. I would be glad to have it.

Mr. BLOOM. Insert it in the record.

(The list is as follows:)

LEAGUE FOR AMERICAN NEUTRALITY

Joseph A. Tomasello, president; Michael Fredo, secretary; Bernard J. Rothwell, P. A. O'Connell, Ralph Adams Cram, Sidney Rabinowitz, Hon. John F. Fitzgerald, vice presidents, 18 Tremont Street, Boston, Mass.

At a meeting held on December 20, 1935, at the Hotel Statler, Cav. Joseph A. Tomasello, prominent Bostonian, was elected president of the newly formed League for American neutrality.

It is the intention of the founders of the League to organize similar groups throughout the country with the ultimate purpose of banding them into a national organization for strict neutrality with headquarters at Washington.

Membership will include representatives of every race and station in life, it was stated by founders of the League.

Until like organizations are formed throughout the United States, the headquarters of the League will be situated in this city.

At the initial meeting Mario Renna, prominent banker, was elected treasurer and attorney Michael A. Fredo, secretary; vice presidents are Bernard J. Rothwell, P. A. O'Connell, Ralph Adams Cram, Sidney Rabinowitz, and Hon. John F. Fitzgerald.

The general committee will include more than a hundred leading Boston merchants, bankers, educators, and jurists, noted for their efforts in behalf of Americanism and a strict "hands off" policy in regard to external conflicts between nations.

In a statement to the press, Judge Vincent Brogna, chairman of the executive committee, called for a restatement of the definition of neutrality.

The noted jurist said:

It scarcely seems necessary to point out that measures applied by a neutral nation to a pair of belligerents may, because of their very nature, affect one of the warring pair while leaving the other virtually untouched.

This, we believe, is mere obeisance to the letter and not the spirit of neutrality. Such a policy, if we care to regard it honestly, is action, not nonaction.

It is our intention to do everything in our power to restate the real meaning of neutrality and to apply it to present and future actuality. Only by such effort can America avoid the ghastly mistake of again allowing itself to be drawn into a bloody European conflict.

The resolution in full adopted was as follows:

"The perilous course which the national administration is following as a result of its construction of neutrality in the Italo-Ethiopian conflict, and the growing conviction that such a course far from rendering our position secure, as a neutral, if further pursued will not only endanger our position as such but may also bring us near the brink of war, prompts us to group ourselves

together into a League for American Neutrality in order to preserve our commanding position as a neutral in the interest of America and of world peace.

"It is important that we have a precise concept of what is meant by the word 'neutrality', at least as it had been defined up to the time that the administration began to inject its own peculiar construction of that important word.

"Neutrality, as it has been construed from time immemorial in international law, means entire abstinence from any participation, express or implied, with either of the belligerents, remaining the common friend of both; favoring neither to the detriment of the other.

"Thus measures officially adopted by a nation though applied to both belligerents, which detrimentally affect one and not the other is not the conduct of a neutral. Such a policy is action and not nonaction. It is not consistent with friendliness. It in fact favors one by doing harm to the other belligerent.

"We, therefore, have banded ourselves together into the League for American Neutrality, in order to protest effectively against the policy as enunciated by Secretary of State Cordell Hull, which, if honestly adhered to, will destroy American commerce, ruin American industry, and impair American prestige. We protest against a policy which if sincerely adhered to gives the power to a foreign country by a declaration of war against another—to close to America the markets of the world. We protest against a construction of neutrality not in accord with its generally accepted meaning before the war was begun. We protest against a policy which radically changes the rules of neutrality. We protest against a policy which radically changes the rules of neutrality to the disadvantage of one belligerent—Italy.

"We urge a restatement of the meaning of neutrality and the adoption of a fixed policy of real neutrality applicable to all situations not affecting American integrity.

Following is the list of the general committee: Frank Abbadessa, Martin E. Adamo, Seth Albiani, Lorenzo Albre, Placido Amaru, James J. Bacigalupo, Hugo S. Bagnulo, Gerardo M. Balboni, M. D., Henry Barbadora, Joseph Barone, M. D., Alfred Bianchi, John Bolardi, G. D. Bottero, M. D., Alexander Brinn, Hon. Vincent Brogna, Ignatius Brucato, Ettore Caiola, Vincenzo Calvaresi, Leon Cangiano, Prof. A. Arthur Capone, Angelo Carlucci, Andrew A. Casassa, Hon. Alfred Cenedella, Rev. George G. Chiera, Luigi Ciani, M. D., Francis N. Ciccone, John Cliffrino, Paul Cliffrino, James Climaglia, Andrea Cipollini, Peter A. Consales, M. D., D. A. Costa, M. D., Benedict DeBellis, John DeDominicis, M. D., Emilio D'Errico, M. D., Domenick DeStefano, Gaetano Faillace, M. D., Harold J. Feistel, Luigi Fiato, Hon. John F. Fitzgerald, Prof. J. D. M. Ford, Hon. Felix Forte, Frank P. Fralli, G. Henry Freda, Michael A. Fredo, Nunziato Fusaro, Elias Galassi, Prof. James Geddes, Albert C. Gennaco, Alfred R. Ghiloni, Ferdinando Gianfranchi, Joseph Gorrasi, Vincent Grande, Ubaldo Guidi, Tommaso India, Antonino F. Iovino, Gaetano LaMarca, Albert Levis, Hon. Frank Leveroni, Louis Limauro, M. D., Francis Licata, Graziano Longarini, Frank Marinaro, John H. Marloni, Prof. Raffaele Martini, Joseph Marko, Paul A. Mazzuchelli, A. P. Nardini, P. A. O'Connell, Charles J. O'Malley, William Dana Orcutt, Vittorio Orlandini, Frederick V. Palladino, Hon. John C. Pappas, John F. Paramino, Charles Pastene, Rev. John Peona, Comm. Gino L. Perera, A. P. Persion, Margaret Pastille, Jerome A. Petitti, P. Nicholas Petrocelli, Ambrose Plotti, Pietro Popoli, Hon. Frank Prestera, Vincent J. Pollina, M. D., James T. Purcell, Sidney Rabinowitz, Abramo Re, Mario Renna, Comm. Saverio R. Romano, Rev. Simone Rainano, Bernard J. Rothwell, Charles Ruggiero, Louis N. Salvatore, William M. Santoro, M. D., Dr. Joseph Santosuosso, P. A. Santosuosso, John Saporito, Prof. Joseph H. Sasserno, Alfred Savestano, John A. Scanga, Alfred Scaramelli, Nickolas Scaramelli, Anthony Scarnici, Bruno Soresina, Frederick R. Sullivan, Rev. Louis Toma, Frank W. Tomasello, Joseph A. Tomasello, Samuel Tomasello, Charles Torriello, Nazzareno Toscano, Michael A. Troiano, John Vaccaro, Rev. Frank T. Valdina, Luigi Verde, M. D., John B. Vernagila, Joshua J. Vernaglia, Vincent Vollono, Frank B. Volpe, C. V. Bruce Wetmore, Eva Whiting White, and Hon. Joseph T. Zottoli.

Mr. LAMBETH. Have you completed your statement for the record, now, Judge?

Mr. LEVERONE. I just want to say this much to you now: Let us get a clear view of this problem. I know that some men cannot get away from the view of the problem, of thinking of it as an Italian-Ethiopia issue. Let me say that the contributions made by the Italians to this country have been very little realized in their importance, and in their

grandeur. If we will just think a moment and consider the fact that the cities of Buffalo, Chicago, and Detroit were founded by Italians, that the region of the Mississippi was founded by an Italian, that this country was discovered and named after Italians. That the great northwest territory, which is the heart of this country, was captured and brought into these United States by the efforts of one individual, an Italian, Francis Vigo. That the Declaration of Independence was in great part formed and set up by an Italian, Phillip Mazzi. Also that the Constitution of the United States was signed by William Paca, of Maryland, an Italian attorney general and the governor of that State. These are some of the illustrations of the contributions which were made by this country in the early days of its history by Italians, or people of Italian origin. I want to get before your minds, gentlemen, the Italian aspect. We are part and parcel of this country. We have come here and made our homes here, and those who have come in later life have helped to build our cities, subways, railroad tracks, and so forth. Therefore, we are entitled to receive from you due and proper consideration.

Mr. LAMBETH. I have just one question.

The CHAIRMAN. Yes.

Mr. LEVERONE. Surely.

Mr. LAMBETH. May I preface my question, Judge, by saying this, that your demeanor here before this committee and your valuable contribution to this complicated and delicate problem is a tribute to your race.

The CHAIRMAN. And to you.

Mr. LAMBETH. And to the group of people that you represent. I do not say that for vote-getting purposes, because I do not suppose there are 25 Italian-American citizens in my district.

Mr. LEVERONE. Yes.

Mr. LAMBETH. I want to ask you a question. You are concerned, and the gentlemen here with you today are concerned with the present situation in Africa, and, naturally, we know where your sympathies lie. For myself, I am not greatly concerned as to the danger of our country becoming involved in that difficulty. What I am concerned about is the danger, the threat, and almost inevitability of another world war involving most of the nations of Europe, and if that should take place, I am greatly concerned about our ability to keep out of that conflict, whatever our avowed neutrality policy may be.

Now, forgetting for the moment—because you have given thought to this subject—forgetting for the moment the Italian-Ethiopian difficulties, and thinking in terms of legislation that may remain on the statute books for generations, and which may be in effect when and if another great world war comes, thinking as, and putting yourself in the place of, one of us on this committee, remembering the very heavy responsibility upon us, what comments have you to make, or what would be your position in such a capacity, assuming there were now no difficulty in Africa, towards legislation of this character?

Mr. LEVERONE. I would have seriously in mind the true meaning of this neutrality, and having the true meaning of neutrality in mind, I would legislate accordingly. That is the essence of the whole problem. You cannot get away from it, if you mean what

you say; if you mean to do what neutrality means in the eye of the law, and, by the way, I am a member of the International Law Society at Washington, and I have been for 15 or 18 years. If you want to carry out the real purposes of real neutrality, then I say you must be impartial, neither friendly with one, nor unfriendly with another.

Mr. TINKHAM. Mr. Chairman, may I ask a question?

The CHAIRMAN. Mr. Tinkham.

Mr. TINKHAM. I emphatically agree with your view that this section 4 should not apply to any war now in progress, and there is only one declared war.

Mr. LAMBETH. Not declared.

Mr. TINKHAM. Well, declared by the United States by proclamation.

Mr. CHRISTIANSON. You mean recognized?

Mr. TINKHAM. Recognized, if you want to use the word. There is a war between Italy and Ethiopia.

Now, there is another aspect to section 4 which I want to bring to your attention, namely, that the President is given discretion as to whether or not he shall declare an embargo, and also as to when he shall declare an embargo, on materials that could be used in war. Now, do you believe that that discretion should be left to him, or do you believe that the placing of an embargo should be compulsory? Following your thought as to what neutrality legislation should be, would it not be possible, in your opinion, if an embargo is not made compulsory upon the declaration that a state of war exists, for the President to postpone an embargo indefinitely (and I do not mean this President, necessarily, but I mean any President, because we are writing this law for many years)? Do you think the President should have the right to choose the time when an embargo should be declared, or do you think that it should be declared instantly that he has declared that a state of war exists?

Mr. LEVERONE. I would say not to leave it to the discretion of the President.

Mr. TINKHAM. That is all I wish to know.

Mr. BLOOM. Judge, further answering the question of Mr. Lambeth, with reference to your idea of neutrality, do I understand you to mean that you do not object to this bill the way it is at the present time, but you do object to this bill applying to the present situation in Ethiopia with reference to Italy and Ethiopia? Is that the idea?

Mr. LEVERONE. Yes; as a matter of fact, if it were left to my judgment; in my final paragraph I say that we have enough legislation now, that we still have an act now in operation, which is ample and complete and that alone is more than sufficient to take care of the situation. All you need to do is amend it so that it shall be kept alive beyond the date now specified.

Mr. BLOOM. That the present act shall be continued indefinitely?

Mr. LEVERONE. Yes, sir; exactly.

Mr. BLOOM. That will apply to what, in your mind, is considered neutrality?

Mr. LEVERONE. Exactly.

Mr. BLOOM. That is, the present act and the international law?

Mr. LEVERONE. Exactly.

The CHAIRMAN. Judge, you have read that fourth section very carefully, I presume?

Mr. LEVERONE. Yes; I have read it a half dozen times.

The CHAIRMAN. Do you think that it is discretionary with the President, when he finds that these conditions exist, to declare an embargo?

Mr. LEVERONE. I think it ought to be with the advice and the consent of the Senate.

The CHAIRMAN. Of the Senate?

Mr. LEVERONE. Yes; of the Senate; and the declaration of war.

The CHAIRMAN. Let me go just a little further. Now, you are going to put it in automatically that wherever world war is declared by proclamation, that if war exists between two little countries over in Europe, the President has to, under this law, declare war is going on; that the President shall establish an embargo.

Mr. LEVERONE. Yes.

The CHAIRMAN. Imagine that there is a war in South America or in Central America or in the Caribbean area, you do not think such a war would menace the safety of the United States, do you?

Mr. LEVERONE. No.

The CHAIRMAN. An embargo would be automatically declared under what you have stated.

Mr. LEVERONE. Yes.

The CHAIRMAN. Why, we had a war going on in South America for 2 years, and that did not involve us.

Mr. LEVERONE. No; and it did not involve the League of Nations either.

The CHAIRMAN. Now, going back to your statement a while ago, whenever the President declares a state of war exists, and to what Mr. Tinkham would have, would you say that under that same declaration an embargo has to be established on certain commodities named?

Mr. LEVERONE. No; the commodities named should not be named every time there is a declaration of war. You will have that on the statute books as you have it now.

The CHAIRMAN. I am speaking of this, Judge, following up one declaration of war.

Mr. LEVERONE. The following up of a declaration of war does not mean a new set of arms and materials.

The CHAIRMAN. Under that question asked you, and the way you answered it, whenever the President declares war exists between two countries, then, mandatorily, an embargo must go on commodities that have been mentioned by statute, or by the President, is that your belief?

Mr. LEVERONE. Of course, so.

The CHAIRMAN. Is that what you mean?

Mr. LEVERONE. That is what you are doing now.

The CHAIRMAN. No, sir, we are not. Let us read that section 4. I assure you it is not in the discretion of the President.

Mr. LEVERONE (reading):

Whenever, during any war in which the United States is neutral, the President shall find that the placing of restrictions on the shipments from the United States to belligerent countries of certain articles or materials used in the manufacture of arms, ammunition, or implements of war, or in the conduct of war—

The CHAIRMAN. That covers it. Now, here is the provision, if he finds it will serve to promote the security and preserve the neutrality of the United States, or to protect the lives and commerce of nationals of the United States, if he finds that either one of those exist, or to refrain from placing such restrictions would contribute to a prolongation or expansion of the war, then he issues that embargo, but that is not in the discretion of the President, is it? That is mandatory whenever either one of those things exist. Don't you think it would be dangerous to provide that when the President declares or proclaims war to exist that in the same proclamation he should cut off all goods and shipments of all character that may be mentioned by Congress or by him?

Mr. LEVERONE. Well, if you are going to have neutrality, it must work evenly.

The CHAIRMAN. It does work that way.

Mr. LEVERONE. Yes, but it is the uncertainty of it.

Mrs. ROGERS. Would you except Latin America if some great foreign nation should attack them?

Mr. LEVERONE. That is, such as Costa Rica or Ecuador or some other small state down there should get into trouble?

Mrs. ROGERS. If some of the great foreign nations should attack one of the countries in Latin America, it might well be to our advantage to ship to them.

Mr. LEVERONE. Yes; it might well be.

The CHAIRMAN. Again, just suppose we declared this embargo when war started just as I understood you to state should be done, if that had been the law when Bolivia and Paraguay were at war we would have been cut off from furnishing any supplies to them whatever, wouldn't we? They would have gone on and gotten their supplies from Europe just like they did get a great many of them. Don't you think you are going a little bit too far on that? There are three provisions in this bill covering that.

Mr. LEVERONE. If we would have been going too far in the case of the Bolivian controversy, aren't we going too far in the Italian-Ethiopian controversy?

The CHAIRMAN. I understand your position is that the fourth section should not be in the bill.

Mr. MARTIN. I think he said the fourth section should be out, but if it did go in it should not apply to the present controversy.

The CHAIRMAN. He said that the fourth section should go out.

Mr. LEVERONE. Yes; it should be out.

The CHAIRMAN. But if it should stay in, then he would make it apply after the present war.

Mr. LEVERONE. Yes; that is right.

The CHAIRMAN. I see your reasons for it.

Mr. LEVERONE. Yes.

The CHAIRMAN. Isn't this fourth section then sufficient for the President to determine it, instead of going back and interrupting all of our trade whenever some war occurs, when we are not likely to be drawn into it? Is it discretionary with the President when he has three provisions, either one of which he finds to be true he has to issue a declaration?

Mr. LEVERONE. It may be so, but we do not know what pressure may be brought to bear upon any individual at any time.

The CHAIRMAN. So, you think whenever war is announced between Abyssinia and some little foreign country over in Egypt, and we know those two countries are fighting, and we are shipping some things over there, we declare war exists, and then we should stop all exports of all character.

Mr. LEVERONE. Logically that is so.

The CHAIRMAN. Would you be in favor of that?

Mr. LEVERONE. Logically we might do so.

The CHAIRMAN. But, you do not favor such a thing?

Mr. LEVERONE. No; I do not favor it, but logically that should be so.

Mr. GILLETTE. I would like to ask another question, enlarging on the matter you discussed with Congressman Tinkham, and I want to say in that connection, Judge, that I hope you do not think these questions we ask you are asked in any antagonistic spirit.

Mr. LEVERONE. No, not at all. I welcome them.

Mr. GILLETTE. I also hope you realize that all of us are earnestly trying to reach the same goal here.

Mr. LEVERONE. We have a problem, I agree with you.

Mr. GILLETTE. In reply to a question of Congressman Tinkham, I believe you said that you felt that if this provision were left in the bill, that at the outbreak of a war it should automatically apply, without leaving discretionary power in the hands of the President to determine as between belligerents.

Mr. LEVERONE. That is right.

Mr. GILLETTE. His question was also prefaced by this statement, that at the present time a condition of war exists between Italy and Ethiopia because the President has proclaimed it because, in fact, he had exercised the discretionary power that we gave him. How are we going to determine when there is an outbreak of war?

Mr. LEVERONE. On the declaration of the President and the approval of the Senate.

Mr. GILLETTE. The declaration of the President?

Mr. LEVERONE. Yes.

Mr. GILLETTE. Then, he is to exercise discretionary power?

Mr. LEVERONE. With the approval and consent of the Senate.

Mr. GILLETTE. Don't you make a great distinction there as to the discretion of the President? There must be some discretion somewhere as to whether war exists or not, whether he shall allow or not allow the exportation of material which is just as essential as arms and ammunition.

Mr. LEVERONE. That is correct. There should be distinctions made as between one and the other.

Mr. CHRISTIANSON. One is discretion as to the ascertainment of the main fact and the other is discretion as to what the attitude of mind of this nation should be under those facts as found.

Mr. LEVERONE. Yes.

Mr. TINKHAM. You believe, of course, that as the last war showed, as modern society is at present organized, the importation by countries at war of materials is almost as essential as arms and ammunition for the maintenance of their offensive or defensive position?

Mr. LEVERONE. Yes.

Mr. TINKHAM. Therefore, you believe, as I understand you to say—and if I am not correct I wish you would correct me—that, automatically upon a declaration by the President that war exists, an embargo should be put on material that can be used for war purposes.

Mr. LEVERONE. Yes.

Mrs. ROGERS. Mr. Chairman, I would like to ask one more question.

The CHAIRMAN. Yes.

Mrs. ROGERS. Really, in effect, isn't this fourth section, instead of a neutrality section, a bid for trade?

Mr. LEVERONE. Yes.

Mrs. ROGERS. And, of course, every country is going to begin to buy up just as fast as they can what material they are going to use in war.

Mr. LEVERONE. Yes, absolutely.

The CHAIRMAN. So you would advocate the elimination of section 4?

Mr. LEVERONE. Yes.

The CHAIRMAN. We are very much obliged to you for your statement.

Mr. LEVERONE. Thank you for the opportunity of appearing here.

STATEMENT OF ANDREW A. CASSASSA, REVERE, MASS.

The CHAIRMAN. State your name and whom you represent.

Mr. CASSASSA. Mr. Chairman and gentlemen of the committee, I am ex-mayor of the city of Revere, Mass., and present president of the Mayors Guild of Massachusetts, but I am not speaking in that capacity.

First of all, I want to read to the committee the definition of neutrality as pointed out by Mr. John B. Davis, formerly Judge Advocate General of the United States Army. [Reading:]

The foreign policy of the United States was, from the first, one of strict non-participation in questions of strictly European concern. Every consideration, therefore, of material interest and territorial position induced the new republic to occupy an attitude of neutrality in all wars of European origin.

The justice and advantage of this policy were fully appreciated by those who directed its foreign affairs, and so thoroughly were the principles of neutral obligation understood by them that the early proclamations of neutrality issued by the United States not only served to establish the permanent neutral policy of that power, but were soon generally accepted as furnishing an enduring standard of neutral right and duty.

That, Mr. Chairman, and members of the committee, is my conception of neutrality, and that when we are approaching a neutrality bill such as is under consideration here, we are adopting a revolutionary policy that America has never adopted before, and that we should not adopt at this time. Any interpretation of neutrality under any writer who has written international law, or books on international law, will convey that same definition to you, that there is only one thing that neutrality involves, and that is nonaction on the part of the governments involved, and the minute we start to want this type of neutrality or that type of neutrality, we cease to be neutrals and we become partisans.

That, Mr. Chairman, and members of the committee, is what I want to impress upon this committee as far as the attitude of myself and

members of the organization that I represent is concerned, not because we are partisans, or because of our forebears, but because we are American citizens, and we are interested in America as Americans, and we are interested in the world policy that has kept America out of Europe until we had a President, who, imbued with the idea that he was going to be a leader of the world, and when he started to interfere in the European politics it resulted in the World War, and that was the last world war that we ever had. Now, then, it seems to me that this same principle is being invoked today. What business is it of America what they do in Europe? Surely, it never has been our business up until 1914, and we ought not to adopt a policy today that is going to bring us into this war or any other war. America has prospered during all of these years upon this foreign policy, and now we are asked to change it. I think the situation is too serious to the lives, to the homes, and to the happiness of the people of America to change it. Our hope is not in this legislation, and you, even though you may be doing it innocently, are bringing America absolutely into European affairs.

As a former assistant Secretary of State said, in the Manchukuo situation, "America stuck her neck out too far." Those were his very words, and he said that in conferences with the present State Department, he felt America was again in the Italian-Ethiopian situation stretching its neck out too far, and we found we did stretch it out too far, we blazed the way for sanctions of the League of Nations. The people of America have refused to go into the League of Nations, and we refused to go into the World Court, and evidently when they talk about public sentiment, I do not know where there is any public sentiment calling for this type of neutrality in America. When you talk to your constituents or the people we meet on the streets, and you say you want to be neutral, accepting neutrality in the ordinary sense of the word, every one agrees that if I go out in the corridor of the Capitol here and find two men fighting and step in and try to stop them that I am going to be the innocent victim of that fight, but if I go by and let them fight, they will fight it out themselves. That is neutrality, in the common acceptance of the word. So, naturally, every one says we are in favor of neutrality. If there is public sentiment in America, and evidently there is from the pressure being brought to bear upon this committee, it is the public sentiment created by those organizations built up by millions of dollars to place America into the World Court, and to place America into the League of Nations. Having failed in that, now they see a back-door entrance into the League of Nations and they are asking us to enter by the back door when we did not have the courage or if we had the courage our people and their representatives refused to go into the front door.

Now, Mr. Chairman, and gentlemen of the committee, that is just what we are doing. When you talk about neutrality, I say you have gone far enough in adopting the legislation which was adopted last August, and the administration wanted you to go further than you did last August. What happened since you adopted that legislation was that the Secretary of State had written to the officials of the League of Nations that we are in favor of sanctions. Your Congress did not say that.

The CHAIRMAN. Just one minute. Where did you get that information?

Mr. LAMBETH. Yes, what is your authority for that statement?

The CHAIRMAN. Where do you get that information, Mr. Cassassa?

Mr. LAMBETH. We want some authority here for such statements, not just wild assertions.

Mr. CASSASSA. Mr. Chairman, we will produce it all. It is right in those volumes issued by the Carnegie Institute.

The CHAIRMAN. We question that.

Mr. LAMBETH. We want to clear this point up. You are charging that the Secretary of State has exceeded his authority, and, further, I think, that the State Department is incompetent. That is a very serious matter. Now, you should correct that statement or produce proof of it, unless you want your entire statement to be utterly discredited by this committee.

Mr. CASSASSA. Let me qualify that statement, and let me tell you what I mean by it; that the Coordination Committee of the League of Nations decided on sanctions, and they asked every member of the League of Nations what their attitude would be. They corresponded with the known members of the League of Nations with reference to this policy. They asked the United States Government about it, and, rather singularly, on the very same day that England and France returned their answer to the question of the Coordination Committee, our answer was there, with the answer of England and France.

Mr. JOHNSON. What was our answer?

Mr. CASSASSA. And they corresponded; intimated that they were friendly to this type of restriction.

Mr. JOHNSON. What was our answer?

Mr. CASSASSA. I will get it for you.

Mr. JOHNSON. What was our answer?

Mr. CASSASSA. That we would go along with them.

Mr. JOHNSON. That the Secretary of State favored sanctions, or the Secretary of State said that he favored sanctions?

Mr. CASSASSA. Mr. Johnson, I will get you that later.

Mr. JOHNSON. I want it now. As one member of the committee, I am going to object to anybody appearing here that makes such a wild statement.

Mr. LAMBETH. We want to keep neutrality between ourselves if possible. We want facts and not just wild statements, made without any proof of their accuracy.

Mr. CASSASSA. I appreciate that. I will get that statement from that pamphlet.

Mr. KLOEB. You made the statement that the Department of State insisted and desired that this committee go far in advance of what it actually did in August of last year. Now, that is news to members of this committee, and I should like to have your proof of that assertion.

Mr. CASSASSA. That the Department of State went further than it did?

Mr. KLOEB. No; that it insisted that we go further than we did last August. I should like proof of that statement.

Mr. CHRISTIANSON. Well, it is a fact that the Administration wanted legislation that was entirely discretionary. I was present with a delegation that called on the President.

The CHAIRMAN. That was last session.

Mrs. ROGERS. That is what he said.

Mr. CASSASSA. I did not say the State Department. I said the Administration.

Mr. JOHNSON. I suggest that the gentleman be admonished that we do not want him in his enthusiasm, to make statements that cannot be proved. We want facts.

Mr. CASSASSA. Yes; I am going to try to give you some facts.

Mr. CALDWELL. I would like to see the authority for the statement that the State Department approved sanctions. I think we probably ought to have that now, before we go further with his statement.

The CHAIRMAN. Let the gentleman suspend until he can furnish proof of that statement.

Mr. CASSASSA. Congressman Tinkham, have you got that pamphlet?

The CHAIRMAN. We do not want a pamphlet. We want proof of that statement.

Mr. RICHARDSON. Let him see what he has.

The CHAIRMAN. There is another statement that you made in this record that I seriously object to; where you referred to President Wilson; where he wanted to be a great man and caused this war and got us into it. I seriously object to such a statement as that reflecting upon such a great statesman as Woodrow Wilson.

Mr. BLOOM. Mr. Cassassa, would you mind just discontinuing for a moment so that you could get that while we call the next witness while you are hunting it up?

Mr. CASSASSA. No.

The CHAIRMAN. Mr. Cassassa, you may stand aside for the present. (In the meantime another witness was called.)

STATEMENT OF ANDREW A. CASSASSA, REVERE, MASS.—Continued

The CHAIRMAN. Continuing your statement where we stopped some time ago, I have the letter that the gentleman referred to in my possession, the letter that was written by Secretary of State Hull, which I want to read into this record. I will give the gentleman a chance to withdraw that statement as he made it if he desires to do so at this time.

Mr. CASSASSA. In explanation, Mr. Chairman, I am going to read this statement to you. This is from a document which is in the Congressional Library, published by the Carnegie Endowment of International Peace.

Mr. JOHNSON. What is the date of it?

Mr. CASSASSA. December 1935. It is document no. 315, and on page 539 under the heading "Sanctions in the Italo-Ethiopian conflict", this statement appears:

A long and anxious week was to intervene, however, before results began to appear. Very few replies were received during that time, or could have been expected. Then, on the following Sunday, by a strange coincidence, came word from the three great western democracies, Britain, France, and the United States. The first two concurred whole-heartedly. The third announced a considerably parallel action.

The CHAIRMAN. Now, I want to read in the record right at this point the letter from Secretary Hull.

Mr. CASSASSA. Now, the Chairman is going to read you a letter from the Secretary of State. And now, I want you to note after he speaks about the items in your legislation the two or three following paragraphs about trading with belligerents and keeping off of ships and things of that nature. Now, I submit to you was there anything like that in the legislation that you passed?

Mr. KLOEB. Do you vouch for the Carnegie Endowment from which you have quoted there?

Mr. CASSASSA. I read you this statement and he is now going to read you the letter that was sent by the Secretary of State.

Mr. KLOEB. I merely desire to observe that I heard some criticism offered of certain peace societies whom it was claimed were financed in a recent meeting in New York by the Carnegie Foundation. Assuming that to be true you are now quoting from a pamphlet issued by the Carnegie Foundation.

Mr. CASSASSA. I quoted the record of what transpired, a published record that was kept of the replies from the different powers. I ask you to note in the letter he is going to read the paragraph following the statement about arms and munitions and passengers keeping off of passenger vessels.

The CHAIRMAN. With the permission of the member of the Committee, I will read the letter which was released October 26, 1935, for the press. [Reading:]

The Secretary of State today instructed the American Minister to Switzerland, Mr. Hugh R. Wilson, to make the following reply to the communication of October 21, 1935, addressed by the President of the Committee of Coordination to the Secretary of State:

"His Excellency DR. AUGUSTO DE VASCONCELLOS,
*President of the Committee of Coordination,
League of Nations, Geneva.*

"EXCELLENCY: I have received your communication of October 21, transmitting certain documents in the Italo-Ethiopian dispute, including the minutes of the Council of October 7, the minutes of the Assembly from October 9 to 11, and the recommendations of the Coordination Committee, for which I desire to express appreciation.

"In regard to your statement that the governments represented on the Coordination Committee would welcome any communication which any non-member state may deem it proper to make to you, or notifications of any action which it may be taking in the circumstances, it is, of course, well known that the Government and people of the United States are deeply interested in the prevention of war, and hence in the sanctity of treaties and promotion of peace in every part of the world; that as a corollary to their abhorrence of war with the human sufferings, the impoverishment of states and peoples, business dislocation and embittered feeling engendered by warfare, we are by tradition strong proponents of the principle that all differences between members of the family of nations should be settled by pacific means.

"I need only call attention to the Hague Convention of 1907 for the Pacific Settlement of International disputes, the pact of Paris, in the negotiation of which the Government of the United States played an important part, the antiwar pact sponsored by the Argentine Government and signed at Rio de Janeiro on October 12, 1933, and the various conventions of conciliation and arbitration to which the United States is a party. These instruments of peace impose upon all nations parties thereto most solemn responsibilities, and no nation can look with complacency upon their nonobservance.

"As regards the situation now unhappily existing between Ethiopia and Italy, I may point out that the Government of the United States put forth every practicable effort to aid in the preservation of peace, through conferences, official acts, diplomatic communications and public statements, and emphasized particularly the principles of the pact of Paris and the high

legal and moral obligations of the signatories thereto. This Government repeatedly expressed its anxiety and the hope that the controversy would be resolved without resort to armed conflict and the convention of the entire Nation that failure to arrive at a peaceful settlement of the dispute and the subsequent outbreak of hostilities would be a world calamity.

"When, however, it was found that hostilities actually existed between Ethiopia and Italy, this Government, acting on its own initiative, promptly announced a number of basic measures primarily to avoid being drawn into the war, and which also would not be without effect in discouraging war.

"The President of the United States on October 5, 1935, issued a proclamation bringing into operation under an act of Congress an embargo on the exportation of arms, ammunition, and implements of war to both belligerents.

"The issuance of this proclamation automatically brought into operation another provision of the act of Congress making it unlawful for any American vessel to carry arms, ammunition, or implements of war to any part of the belligerent countries or to any neutral port for transshipment to or for the use of either of the belligerents.

"On the same day the President issued a further proclamation warning American nationals against travel on belligerent vessels and stating that such travel would be at their own risk.

"In addition to the three measures just mentioned, the President took a fourth and most important step by issuing a public statement definitely warning American citizens against transactions of any character with either of the belligerent nations, except at their own risk.

"This latter statement was later emphasized when I publicly pointed out that the warning given by the President 'certainly was not intended to encourage transactions with the belligerents' and that 'our people might well realize that the universal state of business uncertainty and suspense on account of the war is seriously handicapping business between all countries, and that the sooner the war is terminated the sooner the restoration and stabilization of business in all parts of the world, which is infinitely more important than trade with the belligerents, will be brought about', and that 'this speedy restoration of more full and stable trade conditions and relationships among the nations is by far the most profitable objective for our people to visualize, in contrast with such risky and temporary trade as they might maintain with belligerent nations.' This policy with respect to transactions with the belligerents I now reiterate and reaffirm.

"These steps have been taken for the purpose of dealing with this specific controversy and the special circumstances presented.

"The course thus pursued in advance of action by other governments most of which are parties to one or more of the peace pacts to which I have referred, represents the independent and affirmative policy of the Government of the United States and indicates its purpose not to be drawn into the war and its desire not to contribute to a prolongation of the war.

"Realizing that war adversely affects every country, that it may seriously endanger the economic welfare of each, causes untold human misery, and even threatens the existence of civilization, the United States, in keeping with the letter and spirit of the pact of Paris and other peace obligations, undertakes at all times to not only exercise its moral influence in favor of peace throughout the world, but to contribute in every practicable way within the limitations of our foreign policy, to that end. It views with sympathetic interest the individual or concerted efforts of other nations to preserve peace or to localize and shorten the duration of war.

"Accept, Excellency, the assurances of my highest consideration.

"CORDELL HULL."

Mr. CASSASSA. Now, Mr. Chairman, I submit the last two or three paragraphs that are written there are not in this law that was passed in August, and that is what I had reference to. I do not mean any disrespect, and I do not want to cast any reflections at all.

The CHAIRMAN. That was not your statement here before the Committee. It certainly was not in the law or we would have had an embargo on some of this before now, but at the same time the Secretary of State and the President announced this policy, thinking or

trying to discourage trade, simply because they thought that was a neutral act.

Mr. CASSASSA. Mr. Chairman, that is what, in my opinion, involved us in the World War. They gave Europe the impression that America was going to carry on with all of these things. Then you passed all of these other things. I think it is absolutely proper for the State Department to have sent such a statement, but, not having passed them, they are merely declaring a policy and they do not know what the policy is.

The CHAIRMAN. You went further than that, my dear sir. You probably got excited and went a little further than you should have.

Mr. CASSASSA. It says here in this article I read that two concurred whole-heartedly and the third considered parallel action.

The CHAIRMAN. Knowing the Secretary of State as I do, I know he never made any such statement as that. It is just a wrong interpretation, I think.

STATEMENT OF HON. FRANCIS PALLOTTI, HARTFORD, CONN.

The CHAIRMAN. Give your name and address to the reporter.

Mr. PALLOTTI. Francis A. Pallotti, 1029 Main Street, Hartford, Conn.

Mr. Chairman, and gentlemen of the committee, I believe that the scope of neutrality is to be on friendly relations with the belligerents.

Mr. CALDWELL. Would you mind stating to the committee for what organization or group you speak, or whether you speak as an individual?

Mr. PALLOTTI. I speak for the American League for Neutrality that they have formed in Connecticut, for the meeting which was held last night in New Haven. This is a branch of the League formed in Boston, Mass., and I also speak as an American citizen. I want you to know that my father came here 70 years ago, that I was born in Hartford, Conn., and all my relatives live in Hartford, Conn.

The CHAIRMAN. Are you on the bench now?

Mr. PALLOTTI. I was on the bench, and I was former secretary of state in Connecticut.

Mr. CALDWELL. An eminent jurist spoke here a few moments ago and mentioned the same organization you mentioned. Do you both speak for that organization?

Mr. PALLOTTI. He was speaking for the organization in Massachusetts. We formed one in Connecticut. I am speaking for the organization in Connecticut.

Mr. CALDWELL. Your statement will reflect the attitude of the organization in Connecticut?

Mr. PALLOTTI. Yes, sir.

Mr. CALDWELL. That is what I wanted to get.

Mr. PALLOTTI. Nobody wants war. We all want to keep out of war. I realize, and I think everybody does, that your committee has a hard job, and I am glad I am not in your shoes, that is all I can say.

Mr. JOHNSON. We appreciate that.

Mr. PALLOTTI. I want to say this, that we all agree that there should be neutrality. I believe in what Washington said in 1796,

the better and the longer we keep away from foreign entanglements, the better off America was, whether that concerns England, France, Italy, Germany, Russia, or anyone else. Now, I believe we ought to have neutrality. Now, how is it best to have neutrality? You are placed in the situation today where, if you pass this bill, this proposed bill, there is no question that you are not acting in a neutral manner. The so-called "punitive expedition of wars," or whatever you may call it, in Abyssinia, is in existence, and now you come along and you say exactly what ought to be done. Well, suppose we will say that you should put an embargo on wheat, cotton, and oil. The people in Italy will suffer too. Now, you know, if it comes to that what will happen. It is perhaps foolish, but you know when a person perhaps is going to die, knowing he is going to die, he perhaps will figure he wants others to die with him. So that, instead of causing neutrality, you may cause a world conflagration.

Now, first of all, I think that we are a nation that wants to help our trade along. Sometimes I believe that, perhaps, if a neutrality bill is passed so that these other nations can deal with us, knowing that later on, if a law is passed, in case there is a war we can trade with them in a normal manner, they will perhaps trade with us to a greater extent than they have been trading in the past, but I do not think we really want that. We want a sound basis of trade.

Mr. CALDWELL. Do you think that would be the logical result or, do you think perhaps, those nations would say, "While it is true we can get all we want from the United States in time of peace, our supplies would be materially reduced in time of war, and, therefore, we ought to build up our own internal resources and establish our contacts with nations who will assure us that they will supply us with the necessities of life not only in times of peace, but in time of war", and as a proximate result of that our commerce would greatly suffer. Which of the two do you think would actually result?

Mr. PALLOTTI. That is a hard question to answer with the League of Nations, you can see that. Italy, for example, is a poor nation, who, perhaps, would like to come and buy coal in America, but she would have to pay more for it, in the first place, and she has not the money to pay. So, she goes to Poland and she says to Poland, "I will build a ship for you if you, in return, will pay me in coal." If Poland were in the League of Nations, Poland would say, "On account of the League of Nations we are willing to give you coal, but we cannot give you coal." Still, we are not giving Italy the right to come here and buy their coal here. There is the situation.

I believe there is a neutrality bill at the present time that is strong enough, and, if not, I think really a neutrality bill if it is passed ought to be a neutrality bill so that it will not be retroactive. In other words, to apply to the future, and state now we are going to keep our hands off of what you are doing today, and then if any nation goes into it with their eyes open in the future, it is their fault.

The CHAIRMAN. Do you have any objection to this bill if the two belligerents now recognized are exempted from the provisions of the bill?

Mr. PALLOTTI. Providing it only applies to any other nation that comes in later, not to the two present belligerents. I would like to make myself clear on that point.

The CHAIRMAN. Suppose we should amend this bill so as not to apply to Italy and Ethiopia?

Mr. PALLOTTI. Yes, sir.

The CHAIRMAN. Supposing, then, other nations become involved, do you advocate that it then should apply to all of the nations?

Mr. PALLOTTI. No, sir; only to those who come in afterwards. They are coming in with their eyes open.

The CHAIRMAN. You would not have a neutrality bill, then, would you?

Mr. PALLOTTI. But, it is not fair to pass it now.

Mr. BLOOM. The judge who spoke a few minutes ago said he would agree to that.

The CHAIRMAN. You would not, Judge?

Mr. PALLOTTI. No; I do not think that would be fair, because you could easily then get another nation to come in. That could be easily arranged, do not worry about that.

Mr. BLOOM. In other words, you figure if Albania came into this war it would be nothing, but still that would bar Italy from buying anything it wanted to from this country.

Mr. PALLOTTI. I will tell you what I think would be fair, say to all these persons who are engaged, the belligerents—

We will sell to you cash and carry all the goods you want, that you have normally been receiving during peace times, irrespective of where you have purchased them.

Mr. BLOOM. Without any quota?

Mr. PALLOTTI. Yes; without any quota.

Mr. KLOEB. Suppose that were done, wouldn't that still give the right to cash and carry to the nation that controls the seas?

Mr. PALLOTTI. Then you have to come down to the freedom of the seas.

Mr. KLOEB. Is that neutral?

Mr. PALLOTTI. Well; England, of course, does not recognize anybody. There is no neutrality as far as England is concerned, no. So that, even if you pass this bill there is nothing to stop England.

Mr. KLOEB. Even if we relied simply upon international law, as we did in 1914, there would be injustice in that case, would there not, in adherence to that international law on our part as against belligerents involved in war?

Mr. PALLOTTI. If you read the history of the last World War, and there is no need of deceiving ourselves now, we know that England did just as much against us, almost, as Germany did. I am proally, but remember that Italy was also a member of the allied forces. Somehow or other they seem to have forgotten it now, but you remember England considered even food contraband of war.

Mr. KLOEB. I do remember this, that Germany was part of that war. I am an American, but I happen to be of German ancestry. I do know that when Great Britain blockaded Germany, Germany complained very bitterly that no goods could go through from this country, and the Germans sought the Germans to intervene in behalf of Germany, and we were accused from time to time of being on

one side or the other as the pendulum swung back and forth. When Germany instituted the submarine blockade and prevented goods from going to Great Britain, then once we took action to break that blockade they said we were pro-British. Regardless of what position we take we must finally get down to the point where we must try to submerge our preracial characteristics, and our leanings in that regard, isn't that true?

Mr. PALLOTTI. Yes; that is true.

Mr. KLOEB. Otherwise we cannot remain neutral in a world war.

Mr. PALLOTTI. But; remember we are a cosmopolitan country.

Mr. KLOEB. That is right.

Mr. PALLOTTI. Any person who does not respect the land where he was born, or where his father was born, could not become a good American citizen.

I believe with Washington that we should keep away from foreign entanglements. I do not want to have anything to do with them. I do not believe you will have another world war, as far as America is concerned, for a long, long, time to come. I think the fact that they owe us so much money and that it is costing us so much will make us hesitate. I think the manufacturers and the industrialists want peace for a long time, and that they will think twice before they will see America involved in a war. It is going to be a hard matter to involve America in another war, whether it involves Germany, Italy, or anyone else.

The CHAIRMAN. Thank you for your statement, Mr. Pallotti.

The next witness is Judge Alessandroni.

STATEMENT OF THE HON. EUGENE V. ALESSANDRONI, JUDGE OF THE COURT OF COMMON PLEAS, PHILADELPHIA, PA., REPRESENTING THE ORDER SONS OF ITALY IN AMERICA

The CHAIRMAN. Give your name to the reporter and whom you represent.

Mr. ALESSANDRONI. Eugene V. Alessandroni, judge of the Court of Common Pleas of Philadelphia. I am here as spokesman for the Order Sons of Italy in America.

Mr. Chairman, and members of the committee, I will try to be very brief in my statement.

Mr. BLOOM. What is the number of the membership of your order?

Mr. ALESSANDRONI. Three hundred thousand, representing about 1,600 lodges that cover nearly all of the States of the Union. The organization has been in existence since 1905, whose primary and fundamental purpose is illustrated by the oath of its members, which is the formal and usual oath to support and defend the Constitution of the United States, and to oppose any movement that might tend to subvert the existing order of government.

Mr. BLOOM. They are all citizens?

Mr. ALESSANDRONI. The membership of the order is predominantly that of citizens of the United States. Those that are not citizens of the United States are asked to become naturalized as quickly as possible. I am happy to say that it is distinctly an American organization, insofar as an organization can be an American organization, which is composed of men and women that are born in Italy, or the

descendants of men and women born in Italy. I state that in connection with the presentation of the argument on behalf of the Sons of Italy generally, because I wish to be perfectly frank here. We come here under no pretense at all. We are American citizens and we are, moreover, a part of the body of citizenship, but we come here primarily because there is in our blood a sense, a sentiment, an affection for the Mother Country, which is not inconsistent with our duty and loyalty to America. The Order of Sons of Italy was designated by the authorities during the war, I believe by President Wilson, to be one of the instrumentalities not only to serve in the cause of the war, but also to reach out in the work of Americanization, and we have present with us today the national head of the organization, and several heads of the State organizations, such as New Jersey and New York. My position may be briefly stated by saying that I am in substantial accord with the arguments and reasons presented by Judge Leverone.

Mr. CALDWELL. May I ask, do you speak for the order?

Mr. ALESSANDRONI. Yes; I speak for the Order of Sons of Italy. I speak for the national organization, and I shall be very brief in my statement.

Up to the enactment of the legislation of last August the rule of conduct in international affairs, so far as the United States was concerned, in times of conflict, was the old rule of the still-existing international law, freedom of the seas, and the right of a neutral country to engage with belligerents except under certain conditions. Suddenly, with the advent and the approach of this conflict in Europe between Ethiopia and Italy, which is not unidentified, and cannot be separated from the League of Nations, the thought of the world, and particularly America, was directed to the problem of a widespread conflagration. I submit to this Committee that it was just as natural that the Congress of the United States and the President should have had in mind the possibility of the spread of this war. It was also the sentiment of all of our country that we should not only avoid war, but we should take an active part in preventing or bringing the conflict to a close as quickly as possible, but at the same time the legislation and the spirit behind it, for the first time, sets the world and particularly to the two belligerent countries, Italy and Ethiopia, that there was going to be a change of policy with respect to the position of neutrality of the United States. That change of policy found these two belligerents, or shall I be frank and say Italy, absolutely unprepared. Now, I would submit to this honorable body that in view of the fact that this sudden change has come about, and we must assume that all countries, including Italy at the time, assumed that they would have the freedom of purchasing freely without hindrance—I say, in view of this change of policy, Italy was quite unprepared. Therefore, I say that in this situation it would be very unfair to extend the application of this proposed legislation to the actual and concurrent belligerents.

In other words, I have taken a long time in saying that it is the sense of our organization that an exemption should be made with respect to these two belligerents, and that in homage to the spirit that animates that thought, and the possibility that other belligerents may come into a general conflagration does not change the situation

one whit from the original situation, namely, that the first nations to feel the brunt of it, no matter how heavily it may fall on others, would be Italy and Ethiopia.

I have attended with great interest the work of this committee this morning and this afternoon, and I know it is the spirit of this committee to preserve neutrality, but I believe it is also the sense of the committee from receiving public opinion that there is a widespread belief throughout the United States that there is an aggressor nation in this conflict, and that that aggressor nation should be punished. However, that may be, upon you gentlemen, and upon all of us, each one of us falls the responsibility for delineating a policy for another generation, and in delineating that policy, I submit it should not start with an apparent bias, an apparent injustice unconsciously worked on one of these two belligerents.

Mr. JOHNSON. Would you yield for a question, please?

Mr. ALESSANDRONI. Certainly, sir.

Mr. JOHNSON. This bill differs from some of the other legislation that we have had before us in the past, and have sought to eliminate the question of the aggressor nation entirely, and to apply the law equally with reference to both, to both belligerents without distinction. We did have in Congress, I think in the Seventy-third Congress, a bill which undertook to give the President authority to select the aggressor nation, but this bill is entirely different from that in that section 6 of the bill provides that it shall be applicable to all belligerents.

Mr. ALESSANDRONI. This morning one of the gentlemen of your committee brought out the fact that the United States did not produce tin, and, therefore, in the event of hostilities the United States would be hard put in order to get tin for all of their needs. Now, taking our customary past neutrality legislation, and this legislation as it is today, it serves notice on all nations who are not belligerents to furnish themselves with all of the materials they may have need for in the event of an outbreak of hostilities, and it does something more than that. It prepares them to develop their own resources, and at the same time will give them an undue advantage if a world conflagration should spring from this outbreak that the other belligerents do not have because of the fact that they have not had a chance to prepare for it. Certainly, if any of the European nations today are thinking seriously of going into war, they will take stock of what they have on hand, and will immediately furnish themselves with all of the necessary materials they might need, which will put other nations at a disadvantage.

I submit that to you gentlemen as a matter of serious consideration, always harking back to the proposition that while we mean to be neutral, in reality we are discriminating, in part, because we have to begin, as has been said, with those conditions we have today, but in doing that should we give an undue advantage to other countries who will not be affected by this neutrality legislation because they have provided against that?

Italy and Ethiopia have not had an opportunity to do what we should do in the event we were prepared for hostilities, or what Great Britain, France, or the other nations may do.

The CHAIRMAN. Judge, I would like to ask you just one question.

Mr. ALESSANDRONI. Yes, sir.

The CHAIRMAN. If we should make an exception as to when this should go into effect and other nations became involved later, how should the act be applied? We have had one gentleman say one thing and another say another. We would like to get your views on that. In such a situation should it apply to all nations alike including Ethiopia? I judge from the statement that you have made you would say no.

Mr. ALESSANDRONI. No, it should not. These two nations have been caught, to use the vernacular, with their pants down, in the sense that they had every reason to believe that the neutrality position of the United States would be what it always has been. I hope I have not offended the sensibilities of any one by the use of that expression. If so, I wish to apologize to the committee. That language is used metaphorically and not literally.

Mr. BLOOM. Judge, do you believe that if we were to continue the present neutrality act, to extend that act, would that meet the situation and do you think the people you represent would be satisfied with that?

Mr. ALESSANDRONI. I certainly do, in the manner outlined by Judge Leverone.

Mr. BLOOM. You think that that takes care of the situation in combination with the present international law?

Mr. ALESSANDRONI. Yes.

Mr. BLOOM. If the present neutrality act should be continued in effect, that would meet the situation and it would be real neutrality?

Mr. ALESSANDRONI. Yes; quite so.

Mr. LAMBETH. Judge, now that the temperature of the room has been returned to normal, may I attempt to sum up what I understand to be the gist of your statement, and the position of those whom you represent, which is, that you either favor the extension of the existing act, or if the so-called McReynolds bill is enacted into law, that it should provide it shall not apply to those nations now at war? Is that a correct statement of your position?

Mr. ALESSANDRONI. That is a correct statement; yes—with this qualification: I understand that the existing act provides for the delegation of discretionary powers to the President to declare a list of articles to be embargoed. If it does not so provide, your statement of my position is correct.

Mr. LAMBETH. Of course, both the existing law and the bill now pending give the President the power to determine what are articles of war, or implements of war.

Mr. ALESSANDRONI. Yes. I take no exception to that.

Mr. LAMBETH. Therefore, my previous statement of your position is correct?

Mr. ALESSANDRONI. Yes, sir.

Mr. LAMBETH. Then, I understand your position.

Mr. GILLETTE. First of all, I want to compliment the Judge on his presentation here. It has been intensely interesting, restrained, and valuable. I am interested in one thing now, and I believe I speak for every member of this committee, in legislation to maintain the neutrality of the United States, and prevent being drawn into a conflict.

I think I have seen behind the testimony of those that have appeared here before us, and from the statements of those that have

appeared before us I gather that this is the situation, and I am going to speak bluntly, that England, through the League of Nations, contemplate the imposition of certain sanctions against Italy. The foremost of those is to impose an embargo on oil, to prevent Italy from securing oil which is absolutely essential to the prosecution of the war. England, seeing that the sanctions would be valueless against Italy if Italy had a source of supply over here in the United States whereby she could enlarge the 6 percent that this gentleman spoke of, and get the other 94 percent over here, that in that event, the sanctions would be useless, that she is waiting for action of the type that you think we are about to take, and on that she is going to predicate what action she is going to take over there. Also, that those of you who are opposing this legislation are not opposing neutrality legislation as an academic matter, that you just simply do not want us to take any action that you think is going to place Italy in a position where this market is closed to her in the event that she is forced out of the market by the action of the League of Nations? Isn't that behind most of this controversy?

Mr. ALESSANDRONI. Mr. Congressman, speaking for myself, that is absolutely behind this controversy, and it is perfectly natural. I venture to say that if the effect of this proposed legislation were to reach out to other groups, say, for instance, if Italy were not the nation involved, but if France were the nation involved, or if some other country was the nation involved, you would receive protests from representative American citizens of those groups, because we are voicing and giving expression to the views of the plain American citizens of the street, who have become citizens in the last 10, 20, or 30 years, or the last 5 years, real American citizens, and citizens whose children's children will continue to be American citizens.

The CHAIRMAN. We appreciate that statement, and naturally we know that.

Mr. TINKHAM. Mr. Chairman.

The CHAIRMAN. Mr. Tinkham.

Mr. TINKHAM. Judge, I want to ask you a question in relation to section 4. In this section the President is given the option to issue an embargo any time he may wish to do so. It gives him complete authority in relation to articles or materials to be used in the conduct of war. Now, as you are aware, that covers practically every material that might be used in war, and there are many materials almost as essential in war as arms and ammunition. Do you believe that the President should have discretion about the placing of an embargo upon such materials or do you think that the imposition of an embargo should be mandatory as soon as a state of war is declared to exist?

Mr. ALESSANDRONI. I think much of this discussion has been possibly affected by not keeping in mind the immediate situation with the long-range situation. In principal I am in favor of, and I believe those for whom I speak are in favor of a declaration or an announcement of the materials to be embargoed by the President, which, in my opinion, should be done at once, peremptorily, and mandatorially, so as to give as much certainty as possible to all of the world as to what they may expect in the future.

Mr. TINKHAM. Suppose we do not do that. Suppose we find objections to that, do you think that authority to say what

materials should be embargoed should be left to the President? Are you in favor of the President's having the option at any time during the conduct of a war, after 1 year, or 2 years, or whatever time it may be, of enumerating what materials are to be embargoed?

Mr. ALESSANDRONI. I am not, sir.

Mr. TINKHAM. You are for a compulsory embargo against belligerents of all materials that can be used in war, as well as arms and ammunition?

Mr. ALESSANDRONI. Precisely.

The CHAIRMAN. That question is a little misleading.

Mr. TINKHAM. It was not meant to be so, Mr. Chairman.

The CHAIRMAN. I know you did not mean it to be. He says the President has discretion to issue it when and where he pleases, wherever he wants to. Now, would you consider that true when this law lays down when certain things appear, when it appears to the President that the placing of restrictions on the shipment of certain articles of materials and so forth would serve to promote the security and preserve the neutrality of the United States, or to protect the lives and commerce of nationals of the United States, or that to refrain from placing such restrictions would contribute to a prolongation or expansion of the war, when either one of those things appear, the President shall issue his proclamation. It is not as Mr. Tinkham says, that he can issue it whenever he pleases.

Mr. ALESSANDRONI. The difficulty with that seems to be that it depends entirely upon what the Executive thinks is the condition. It leaves with him judgment on a subject upon which many honest men differ. It leaves upon him that discretionary power, and my idea is in this situation, and our group thinks that that discretionary power has been abused, and that is why we are here.

Mr. JOHNSON. However, you do agree with references to arms, implements, and ammunition that even that term would have to be elaborated by the President as to what was described within that category?

Mr. ALESSANDRONI. I agree with that.

Mr. JOHNSON. If that is true, wouldn't it be true with reference to other commodities covering a wider field? Wouldn't there have to be some discretion vested rather than naming those in the act itself?

Mr. ALESSANDRONI. I rather believe in the future that everything will be considered material for war, and on that basis I should think if he is given that authority he will have to so state.

Mr. KLOFF. During the World War, The Hague listed some 800 articles of so-called contraband of war. It developed that they were criticized for having missed it by some 200 additional articles. You see the impossibility of this Committee attempting to sit here and enumerate in an act each article which they consider articles of contraband, and making it mandatory upon the Executive to place that in effect. As a matter of fact, practically every article in existence, every kind of goods, in modern warfare, is economically necessary to the conduct of war. Isn't that true?

Mr. ALESSANDRONI. Quite so.

Mr. KLOFF. Don't you think that the Executive, in exercising his judgment, for instance, on the first section of this bill, defining

the implements of war, that he would do so strictly and legally as to what are actual implements of war? Now, take the other side of it as to what are not implements of war, but what may be used in the conduct of a war, wouldn't it be virtually necessary for the Executive, whomever he may be, to practically include every item used in human existence today?

Mr. ALESSANDRONI. I think so.

Mr. JOHNSON. In other words, the only way to have legislation that would be mandatory would be to prohibit the exportation of all articles of every kind.

Mr. ALESSANDRONI. Practically so.

Mr. RICHARDSON. What we are interested in is keeping the United States out of war. What I want to know is if this bill is left as it is, will that have a tendency to get us into war?

Mr. ALESSANDRONI. I think so.

Mr. RICHARDSON. With whom, Italy and Ethiopia?

Mr. ALESSANDRONI. When I say "I think so", I am reminded of the public statement, and a statement made here this morning to the effect that the Premier of Italy said that the imposition of oil sanctions meant war. He may have meant that with respect to the League of Nations. Since it would mean war with respect to the League of Nations it might or might not mean war with the United States, but very close to it.

Mr. BLOOM. It would be considered by Italy as being an unfriendly act on the part of the United States.

Mr. ALESSANDRONI. Yes; especially under the circumstances.

Mrs. ROGERS. Do you not think that section 4 is, really, instead of a neutrality section, a bid for trade? Of course, every country will immediately start to provide for as many war materials as possible in order to have a quota advantage when the embargo starts.

Mr. ALESSANDRONI. Yes; I think I touched on that when I said this will serve notice to them.

Mrs. ROGERS. And, to, the countries that cannot afford to prepare will be hindered?

Mr. ALESSANDRONI. Yes.

The CHAIRMAN. Your idea is to eliminate section 4?

Mr. ALESSANDRONI. Yes; to eliminate section 4.

The CHAIRMAN. We are very much obliged to you, sir.

The CHAIRMAN. Dr. John Rossi.

STATEMENT OF DR. JOHN F. ROSSI, UTICA, N. Y., REPRESENTING THE LEAGUE OF UTICA FOR AMERICAN NEUTRALITY

The CHAIRMAN. Will you state your name and address?

Dr. ROSSI. John F. Rossi, Utica, N. Y.

The CHAIRMAN. What is your business?

Dr. ROSSI. I am a doctor.

The CHAIRMAN. Whom do you represent?

Dr. ROSSI. The League of Utica for American Neutrality.

The CHAIRMAN. We will be glad to hear you, Doctor.

Dr. ROSSI. Now, from what I have heard this morning and this afternoon in the discussion you had here, I see that the neutrality business is a very complicated and complex subject. I thought it

was a very simple matter, but I have to say I was mistaken. At the same time, I wish to express what is my own humble opinion on neutrality. As I understand it, I think neutrality ought to be like this: You say, "You, Italy and Abyssinia, are in a state of war. I do not want anything to do with you. You fight as long as you can." Or, on the other hand, if England and France or Germany are in trouble we keep out of their trouble. Neutrality ought to be only that I do not help you and fight on your side.

I am neutral, and the United States is neutral between two belligerents because the United States will not send its soldiers on the side of one or the other, but for the rest of it, about giving and furnishing ammunition and raw materials, there are two ways of looking at that. The United States will agree to send munitions of war, or raw materials, or to cut off everything. If the United States, in case of conflict in Europe between two or more nations, were to say, I will cut off all of the materials, munitions, and raw materials, what benefit will come to the United States from this attitude? If they do not send iron and steel to them, they will try to get iron from other countries, from Russia, for example, and Russia will develop her mines and furnish iron to the countries that are lacking in iron. Who will suffer from that in the end? The United States will suffer.

If the United States refuses to furnish cotton to the belligerent nations, after the war is over, who will suffer for that? The United States will suffer. England will develop the Sudan and produce so much cotton that they will not buy 1 pound of cotton from America any more. So that, in all those cases, this strict neutrality applied to the munitions and the raw materials will be really detrimental to the interests of America. In fact, there is one of the reasons why we have this depression today, that many of the nations, due to the World War, do not buy any more from America. They try to produce for themselves many of the things that they used to buy here in America. They do not buy here any more. They buy it in some other country, or else they produce it themselves.

Mr. KLOEB. Isn't one of the main reasons that there is still \$12,-000,000,000 owing for what they did buy and did not pay for?

Dr. ROSSI. Yes; I know that, but why? Because America did not have any business to go into the war in 1914. If they had stuck to the rule that America ought to stay out, as the great President Jefferson or somebody else said, "Keep out of European affairs", that America would not go into war, America today would not have lost those billions of dollars, and the prosperity in America would have been the same.

Mr. KLOEB. As I understand it, you are advocating selling them anything, including munitions? We sold them all that before for \$12,000,000,000 which we never collected.

Dr. ROSSI. Well, but pay cash; sell on a cash basis. I am a great admirer of the American spirit. I am also a great admirer of civilization and of keeping peace in the world, but there is no use in being so sentimental and so idealistic with nations that are always fighting one another. They are like sharks, fighting one against the other. Is that true or not?

Mr. RICHARDS. You were talking about the trade we would lose by observing neutrality. Supposing we made them pay cash

wouldn't they go where they could get credit? Supposing we tried to make England pay cash, wouldn't they go wherever they could get credit and buy there?

Dr. Rossi. We could not help that. If they came to America and wanted to buy 10,000,000 tons of steel, or 10,000 bales of cotton and you asked them to pay cash, if they did not pay cash, and they bought from some other country you would not lose anything. As to neutrality in America you will never succeed in having peace in Europe for the same reason that in Europe they can never have peace on account of economic reasons.

The present trouble in Europe is due to the injustice we met with in the Treaty of Versailles, and until they put in a remedy where they can have a better distribution of wealth, where they can have a more equal distribution of the colonies, never will there be peace in this world. The best method can be effected by the President of the United States and by the Congress of the United States. You and the President have the power, because you represent the biggest, and the largest, and the noblest democratic country in the world. Why don't you call on the President of the United States, why don't you call on him to say to Italy and Abyssinia, "I propose that you have an armistice now for a few months." At the same time the President of the United States or the Congress could hold an international conference where we will get to the bottom of the condition over there. If you want to cure a disease you must get to the bottom of the condition and know what has caused this disease, and the disease today is just economic conditions.

So, if you ever find a remedy for these economic conditions, then you can have peace. Then it is time to enforce the Covenant of the League of Nations, but until that remedy is furnished, it will not be done. Never mind that there are League of Nation sanctions, there will not be peace. If the President of the United States will call these belligerents together, call an armistice for 3 or 4 months and call the great powers together and say to the nations that have too much and to the nations that have nothing, to come to an agreement so that the nations that have nothing will have a chance to expand their population, and have a chance to colonize some section where there is lots of room and to improve their condition, and at the same time have raw materials for their factories and industries, America will have done a great thing for peace for the world, and if our President will do that, the President of the United States will go down in the history of the world as a great benefactor, and America will be considered as the greatest Nation in the world in its contributions toward peace and toward progress in this world.

Mr. LAMBETH. If you have completed your statement, I would like to ask you a question.

Dr. Rossi. Yes, sir.

Mr. LAMBETH. I am greatly impressed by your honesty and sincerity.

Dr. Rossi. Yes, sir.

Mr. LAMBETH. I want to ask you this: Reference was made here by a witness earlier this afternoon to the Secretary of State. In line with your reasoning before the committee, I want to ask you if, in your opinion, the policies of the present Secretary of State looking to the tearing down of barriers or restrictions on world trade, so that

nations may trade more freely and equally with each other, would not greatly relieve the tension in the world which is causing danger of war?

Dr. ROSSI. Yes, sir.

Mr. LAMBETH. You agree with that policy of Mr. Hull?

Dr. ROSSI. Certainly.

Mr. LAMBETH. If Italy could have been assured that in time of peace—as long as she remained peaceful—she could trade her surplus products for our raw materials, such as coal, iron, and cotton, do you not think that her present expedition into Ethiopia would not have been necessary?

Dr. ROSSI. No; I do not think so.

Mr. LAMBETH. You do not agree with me?

Dr. ROSSI. No. Italy cannot send money to the United States. I think what you say is right, theoretically. I believe it is good so far, but not to the limit, to give to Italy a minimum of existence.

Mr. LAMBETH. You gentlemen have been good enough to come here at your own expense because you are deeply concerned in your own minds about a matter affecting Italy, which is natural. We, as Americans, must appreciate the fact that Italy has a problem very different from our own. Her population is expanding so rapidly that she does not have the territory on which to make a living. She lacks fundamental raw materials such as oil, cotton, and coal.

Without discussing the merits of this enterprise in Ethiopia, because that would lead to debate, and without justifying to any degree the policy of the Italian Government and the right of that Government in doing so, I, for one, wish you to understand that I view with sympathy the problem, the peculiar problem, that Italy has. Therefore, I believe that there should be a revision of the unworkable Treaty of Versailles, so that Italy could have some colonies by peaceful annexations for (1) expansion of population, and (2) to assure her some raw materials, supplemented by a rational policy of international trade, of which the present Secretary of State is the greatest advocate in the world today. I believe if that could be done international tension would be relieved and the necessity for this proposed legislation would be greatly lessened. Do you agree with that general position, Doctor?

Dr. ROSSI. Yes; I agree entirely. The President of the United States said a few days ago to those nations that have little or nothing, "Why not wait and try to get the situation cleared up peaceably?" With all due respect to our President, I would like to ask him how it can be accomplished. Since the armistice, Italy has asked England and France to apply those articles in the League of Nations, in the covenant of the League of Nations, and the Treaty of Versailles where they say that in the near future we will have to get a better distribution of wealth and colonies, and they have refused all the time.

I remember a short time after the World War Italy tried to get a contract with Turkey for the use of a mine in Turkey. England and France objected to it. Now, do you want to aid that nation in that condition when you put it with its shoulder to the wall, when it has the choice of either dying of starvation or to die fighting? If that is the case, is it better to die fighting than to die by starvation?

Mr. LAMBETH. Nations will fight to exist, of course.

The CHAIRMAN. Doctor, we are very much obliged to you, and very glad to have heard you, sir.

Mr. BLOOM. Doctor, I hope you heard your Congressman's statement this morning. We have had no more valuable information than we received this morning from him.

The CHAIRMAN. There have been references made here several times to Mr. Walter Lippmann. In view of that fact and knowing Mr. Lippmann is quite a writer on this subject, the following telegram was sent to him under date of January 13:

WALTER LIPPMANN

Herald Tribune, New York, N. Y.

Am instructed by Chairman to invite you to appear before Committee Wednesday, January 15, 10 a. m., on subject of neutrality.

I. R. BARNES,

*Clerk, Committee on Foreign Affairs,
House of Representatives.*

On the same day, Mr. Barnes, the Clerk of the Committee received this telegram:

I. R. BARNES

Committee on Foreign Affairs, House of Representatives.

Appreciate the invitation but have no views to present and beg to be excused.

WALTER LIPPMANN.

I want to say further one reason we sent him the wire was because he had wired us to send him some copies of this bill, which were forwarded to him about a week ago.

Mr. LAMBETH. He has not any views to present to us.

The CHAIRMAN. He is quite an able writer, and I wanted to give him a chance to be heard.

(Whereupon, at 4:45 p. m., the committee adjourned until tomorrow, Wednesday, Jan. 15, 1935, at 10 a. m.)

AMERICAN NEUTRALITY POLICY

WEDNESDAY, JANUARY 15, 1936

HOUSE OF REPRESENTATIVES,
COMMITTEE ON FOREIGN AFFAIRS,
Washington, D. C.

The committee met at 10 a. m., Hon. Sam D. McReynolds (chairman) presiding.

The CHAIRMAN. The committee will come to order. Dr. Stoddard is present this morning. Doctor, we would be glad to hear from you.

STATEMENT OF DR. LOTHROP STODDARD, WASHINGTON, D. C.

The CHAIRMAN. Doctor, you are a writer?

Dr. STODDARD. Yes, sir.

The CHAIRMAN. Tell us something about yourself.

Dr. STODDARD. Mr. Chairman and gentlemen of the Foreign Affairs Committee:

For over 20 years I have been a writer, a lecturer, and a student on world affairs. I have tried to take more or less the world for my province and not specialize in any particular part of the world.

The CHAIRMAN. You are the author of several books, are you not?

Dr. STODDARD. Yes, about 16 books and a great many magazine articles; especially newspaper articles.

Mr. LAMBETH. As a matter of personal interest to me, you are related to the famous lecturer and traveler of the same name?

Dr. STODDARD. He was my father.

Mr. CHRISTIANSON. And some of your principal books have been *The Rising Tide of Color*?

Dr. STODDARD. Yes.

Mr. CHRISTIANSON. *Racial Realities in Europe*?

Dr. STODDARD. Yes.

Mr. CHRISTIANSON. *Reforging America*?

Dr. STODDARD. Yes; and others.

In the first place, gentlemen, I want to say how truly honored I feel to be called before this distinguished committee on a subject which is of tremendous importance and in which I have been particularly interested for years past.

I have never had any illusions about the world situation. I have felt from the start and the end of the war that the peace settlement was extremely faulty, and that it was a breeder of wars, which were almost bound to come. And therefore, what has been transpiring today has been no surprise to me, because I have felt that they were coming ever since the end of the war, 16, 17 years ago.

Now, I have read your bill, studied it with great care, and I want to congratulate you, Mr. Chairman and members of the committee, on having produced what I believe, in the main, to be a very sound and well-thought-out project of legislation.

I want to congratulate you particularly on the words on page 4, lines 11 and 12, when you speak about the average of shipments during a previous period of years. It strikes me that is very much superior to the more or less restricted and automatic provisions of other bills now before Congress, one of which, as I remember it, restricts it to the 5 years preceding.

You gentlemen, on the other hand, have clearly realized what you want to get is a fair and just quota, based upon truly normal conditions. And that gives you the latitude to seek a period of years uninfluenced by an abnormal depression or influenced by other abnormal considerations such as, perhaps, an undue stocking up of certain articles by certain powers.

That, to my mind, gentlemen, is the essence of true statesmanship, to try to attain an object by a combination of realism and justice; because the simultaneous attainment of those goals is often prevented by the fact that we do not take both those elements into consideration.

As I see it, no suggested solution, however perfect it may be theoretically, is of much good if it does not take into account the facts of the case.

As part of that realism, one must consider both the state of the world and the state of domestic public opinion, whether a thing is generally possible and whether it is what may be called democratically possible, because no government can go very far in advance of public opinion.

Mr. JOHNSON. If the gentleman will pardon me right at that point, and supplementing what he has said, your idea of law is what I saw in a definition given by some lawbook writer a few years ago, that law was the crystallization of public sentiment.

Dr. STODDARD. It is, sir. That is exactly my idea.

Mr. CHRISTIANSON. I presume you have in mind the fact that if we should pass a law which placed an absolute embargo on certain raw materials like wheat and cotton, we should probably stir up against us the political opposition of millions of voters that would compel a repeal of those provisions, in the event that their efforts to find profitable markets during wartime were frustrated.

Dr. STODDARD. And something worse than that, because this aroused public sentiment, which I believe perfectly justifiable, the fact that millions of Americans were forbidden to sell their own goods in their own country to people coming here with American dollars to take it away—I am assuming now that the other provisions providing for the nonshipment of goods in American bottoms, and so forth, went into effect—would be clearly against the American spirit; and that aroused public sentiment would be used by sinister interests to overthrow this whole concept of neutrality and lead us back to the old profiteering neutrality which got us into the war the last time.

I think it is an excellent illustration of the way in which a theoretically elegant solution may lead to the most disastrous consequences.

Speaking about public opinion, in the past 3 years I believe I have myself had a fair sampling of that, because I have spoken a great deal on this specific topic. I imagine I have addressed at least 50 audiences of the most diverse character on this specific question of neutrality and how to keep us out of the next war. Those audiences were scattered pretty generally over the whole northeastern quarter of the country, as far west as the Mississippi River.

Mr. EATON. And before you get through, Dr. Stoddard, will you tell us specifically how to keep out of the next war.

Dr. STODDARD. Of course, I have not put forward an absolute panacea, I realize that. I have tried to lay down certain lines of policies. Besides fifty addresses on this specific topic, I must have spoken to as many more audiences on other phases of world affairs, but always bringing in at least an allusion or two to this situation. And in every instance I have found that the majority of my audience was for honest-to-God neutrality. It is true that sometimes they would desire other things which would be inconsistent with it, not realizing the inconsistency; but fundamentally, what they want is neutrality.

The CHAIRMAN. In other words, they might put in certain things which they thought would cause us to be neutral but which might lead us into war.

Dr. STODDARD. Yes.

Mr. TINKHAM. Mr. Stoddard, an honorable member of this committee asked you how we could keep out of the next war. Do you not think we can keep out of the next war—speaking for the American people—if we have a will to keep out?

Dr. STODDARD. That is the most important thing, I think.

The CHAIRMAN. You mean the people.

Dr. STODDARD. Yes; the will to keep out.

The CHAIRMAN. The people?

Dr. STODDARD. Yes; the people. And that will, gentlemen, is to my mind very strong. And when that is pointed out, when the inconsistencies are pointed out, that they are trying to eat their cake and have it, too, —

The CHAIRMAN. If you will permit me to interrupt, Doctor, let us proceed to analyze the bill and then we can ask you some specific questions concerning it.

Dr. STODDARD. Gentlemen, in order to make my specific comments, and to give you the reasons why I make them as I do, I will ask the indulgence of the committee, if I may, to make a few general remarks, before I come to the specific points I have in mind.

In the first place, it seems to me that we have got to have a very clear idea as to the nature of neutrality. There are a number of different breeds of neutrality, suggested in the world today. There is conditional neutrality; and then, of course, we have more or less the internationalist school of thought that thinks there is no such thing as neutrality.

However, the classic doctrine of neutrality has been pretty well fixed ever since the time of Grotius, in the seventeenth century. This question about trying to pick the aggressors and making distinctions between just and unjust wars is nothing new. The earliest doctors of international law, way back in the fifteenth and sixteenth

centuries, tried to start that way. But gradually they gave it up because they found that the subject was so vast and had so many ramifications, it was almost impossible to separate the sheep from the goats absolutely; and that it was impossible to delineate or denominate just and unjust wars except in a more or less arbitrary and legalistic sense.

Therefore, you get the crystallization of this doctrine of neutrality which is that the neutral must treat all belligerents in an absolutely equal way. That does not mean, gentlemen, that the neutral is obliged to see to it that all parties profit equally by his neutrality. That would be to put neutrals more or less in the position of seconds to a duel. Seconds to a duel are charged with the duty of seeing that the duel is fought upon absolutely fair and equal terms. The neutral is not expected to do anything like that. He is supposed to lay down equal rules of conduct applicable to all belligerents and to stick to that line.

Now, for this country, it seems to me, not merely such a neutrality is demanded by public sentiment, but it is incumbent upon us especially—and it is possible, of course, that members of the League of Nations may adopt one of the newer concepts of neutrality, because they have taken upon themselves certain obligations under the covenant, and so forth; and for them possibly a different line may be required—but we, standing as we do, aloof from the League, it seems to me it is incumbent upon us to follow the classic line of neutrality in a very literal sense.

I listened to the discussions yesterday with great interest, and it seems to me that we must have a very clear idea of the nature of political conditions in the world today.

You, know, gentlemen, after every great war, for a time, there is an overwhelming desire for peace. War is regarded not merely as the greatest evil, but more or less as a thing in itself. Now, as I see it, gentlemen, war is no such thing. War is a byproduct of certain conditions. Nations come to feel either that the existing situation is so intolerable that in default of peaceful methods of redress, they are willing to risk a war in order to better their situation. Other nations, on the other hand, cling so to the existing set-up and treasure it so that they are willing to fight a war rather than to lose it.

When those conditions exist, you get not merely the possibility, but the probability, ultimately, of war. On the other hand, when those conditions do not exist, you practically cannot get a war.

Take, for example, our relations with our good neighbor, Canada. You could not get a war up between the United States and Canada to save your neck. And why? Because the American and the Canadian people have become profoundly convinced that there are no issues between them or are likely to arise between them which are worth fighting for.

Therefore, gentlemen, if all the so-called merchants of death got together, headed by Sir Basil Zaharof and descended on us here, they could not sell Washington or Ottawa a bill of goods for 10 cents, if it was clearly part of the bargain that those munitions would have to be used against either one of these nations.

I think Representative Christianson will bear me out when I say that a similar condition of affairs exists between the Scandinavian

nations. Those peoples have threshed out all of the conflicts between them. They have come to the conclusion that there is nothing worth fighting about, and therefore a real peace prevails in that section of the world.

Mr. TINKHAM. And there is no pressure of population in that peninsula.

Dr. STODDARD. No; I am not saying that they have arrived at it from purely idealistic methods. Quite the contrary. It is because they have not tackled this problem of war as a thing of itself. They have threshed out the other problems and the byproduct, war, simply does not appear in the process.

Mr. GRAY. Is it not a fact that there has long been an agreement between this country and Canada to submit all disputes or questions of dispute to arbitration?

Dr. STODDARD. Yes, sir; but I think that would not have taken place had there been serious war-breeding problems. I think that it is because of the increasingly peaceful relations between the two countries, and the fact that the war-breeding quarrels were eliminated, that that came to pass.

Mr. GRAY. Was not that agreement negotiated long before this peaceful state existed? That is, it is of long duration.

Dr. STODDARD. Yes; it is of long duration. But I think after the War of 1812, it was practically definitely decided on both sides that a peaceful solution was possible of their problems.

Now, gentlemen, you see this unreal attitude toward war which prevails, this wishful thinking, that war is the greatest of evils and must be avoided without removing the causes of war, has produced a very peculiar situation.

All of the merely prohibitory clauses in the Covenant of the League and the Kellogg Pact and all the other peace machinery that has been erected, has produced a certain unreality in the situation. In fact, there is a curious parallel in my mind between all this prohibitory machinery and the late noble experiment. It seems to me to constitute collectively a sort of international eighteenth amendment, and what is the result? Gentlemen, you are getting today bootleg war.

Mr. TINKHAM. What do you think of the Briand-Kellogg Pact?

Dr. STODDARD. All this more or less prohibitory machinery is inspired by the idea that war is a thing in itself, that it must be prohibited or outlawed, or something like that, without removing the causes of war.

Mr. TINKHAM. Of course, there is no machinery connected with the Briand-Kellogg Pact.

Dr. STODDARD. No; that is, not in the same way as the League of Nations. But it is all motivated by the same attitude.

Now, gentlemen, you are getting these bootleg wars which may continue for years without a declaration in the old sense. You get these states of war. But it is the same old thing. It is just like when, in the old days, you might have had your liquor served to you in a coffee cup instead of a whiskey glass, but it had the same old kick, and you cannot get away from the same old thing.

As I say, the state of the world today, based as it is upon this unreal attitude toward war, is founded upon a very faulty political

and economic set-up in many parts of the world. Wars are obviously brewing in both Europe and the Far East, and there is precious little, if anything, that the United States can do to avert either of those wars.

I see no vital interest of the United States, either in Europe or the Far East, and therefore I think the overwhelming attitude of the American people toward neutrality is based not merely upon selfish parochialism as is so often alleged, but also, of course—although that is probably a factor—by a pretty sound idea of the realities of the situation.

Mr. TINKHAM. And instinct?

Dr. STODDARD. And instinct, yes; and also an increasing reasoning appreciation of this situation. The American people, gentlemen, have learned a lot since 1914. In 1914 they did not know really—that is, most Americans—whether Serbia was a country or a musical instrument, but those days have passed.

Mr. TINKHAM. And they have paid for that knowledge, too.

Dr. STODDARD. Very dearly. Now, if we will look at the world in that realistic way, and if we will take into account the realities of the situation, I think that we will get a much clearer idea of what should be our goal.

It seems to me that what should be attempted here is a laying down of a permanent line of policy, and that policy, as a policy, should be as definite and explicit as possible.

It seems to me that Congress should express its intentions in this matter as clearly as possible. On the other hand, I thoroughly agree with the sentiment of this committee that a certain amount of discretionary power should be left to the Executive in the carrying out of the policy clearly defined by Congress.

But I do not believe that in a matter so vital, so complicated, and with the experience of the last war before you, the Executive should have a wide discretionary power as regards the initiation or the formulation of policies in this matter. And I say that, not in suspicion of the Executive, but on behalf of the Executive.

I think we can fairly take for granted that any executive who will occupy the White House is going to be a patriotic man who will desire to carry out the wishes of the American people, and who will be mindful of his oath of office in every way. But I do not believe that for his own sake a President ought to be exposed to the pressure, political, economic, emotional, and others, that Mr. Wilson was compelled to be under during the last war. I think for the Executive's own sake that should be made clear.

I think we have had an excellent example of that during the past few months. Unless I am misinformed, during the past few months, the White House and the State Department were under considerable pressure to interpret in a very wide and unduly wide sense, as I believe, the phrase, "munitions of war." But what happened? In its debates and in its committee meetings, the Congress had set forth its intentions in that matter so clearly and so unequivocally that all such suggestions were promptly countered by the statement, by the Executive department, that the intent of Congress was clear, and that they should abide by the intent of Congress until other legislation had supplanted the present law.

I think that is a very important point. I think that some of these theoretical fears that were expressed yesterday can easily be cured if Congress expresses itself clearly and forcefully enough in that way.

The CHAIRMAN. If you will pardon a suggestion there, you mean arms and ammunition; you do not mean commodities and so forth?

Dr. STODDARD. I am talking now as an illustration—

The CHAIRMAN. I am referring to the State Department now.

Dr. STODDARD. I heartily agree with you, sir, that the enumeration of the commodities should be left to the Executive, and also that the determination of a state of war ought to be left to the Executive. But the Executive ought to do that in a fact-finding way and not as a formulation of independent policy.

I can best illustrate it by saying that a court is required to take judicial notice of certain things when brought to its attention. In a similar way—of course, the thing is not on all fours—but in a similar way, the intent of Congress, it seems to me, ought to be that when a state of war is called to the attention of the Executive, that when he becomes aware of it, if it falls within a certain general category, he is required to proclaim a state of war. You have got to give the discretion to him. But if Congress makes its intention clear enough that that shall take effect, I think there will be no trouble about it.

In the same way, with reference to these commodities; the intention is that the interest of the United States in the preservation of our neutrality, is the paramount consideration. That is the thing. And the President will act in a fact-finding capacity, but not in the formulation of an independent policy.

Mr. GRAY. If I may ask a question with reference to the declaration of the existence of a state of war: That is left here as a matter of wide-open discretion in the Executive. Why would it not be preferable for Congress to define what constitutes a state of war, to state the facts that would constitute a state of war, and then allow the Executive to determine the existence or nonexistence of that situation, instead of going further and himself determining the facts that constitute a state of war.

Dr. STODDARD. Because, sir, in these days, of what I call bootleg wars, it is increasingly difficult to find out when a state of war exists. You take this "what have you" that has been going on in China for years. Is that a state of war or isn't it? It is a very moot point. Personally, I do not think a state of war exists, because in the first place, I regard China as chaos, anyway. And, certainly, there has not been any declaration of war by the so-called Central Government, which is merely one of the prominent factions over there.

Mr. GRAY. Are you in favor of leaving the facts to be found by the Executive wide open, without any restriction, so that he can regard any facts as he wants to, as constituting a state of war, or would you define the facts that should constitute a state of war?

Dr. STODDARD. I do not think it would be possible to cover all cases. I think he has got to be left with that discretion. But I think the intent of Congress should be so clearly manifested that it would become a matter of fact finding for the President.

Mr. EATON. And if a man did not have intelligence enough to do that, he ought not to be President.

Dr. STODDARD. Exactly; with the assistance of the State Department.

Mr. JOHNSON. Are you going later to specify the character of bill that you think ought to pass? You have laid down some general principles with reference to the matter, but I am wondering if you are going to make some concrete application of those principles to the legislation before us.

Dr. STODDARD. No, sir; because I am not an expert in the drafting of bills.

Mr. JOHNSON. You may not be an expert in drafting, but I think your philosophy of the matter is very sound. Sometimes we may have an idea about what ought to be done, but when we get to making a practical application of it, we find ourselves faced with a brick wall. I wonder if you had thought specifically of the character of legislation that should be passed, even if you do not have in mind the precise phraseology.

Dr. STODDARD. Well, for instance, at the beginning of section 3 I should say, perhaps, when a state of war clearly exists between or among, and so forth.

Mr. JOHNSON. Then what?

Dr. STODDARD. Then these things shall follow.

Mr. JOHNSON. That language is couched in a way to make it a measuring rod for the President. In other words, the President under certain conditions is authorized to do certain things, and the amount of the commerce is limited to the normal——

The CHAIRMAN. I am afraid you misunderstood Dr. Stoddard. Dr. Stoddard is on section 3.

Mr. JOHNSON. Oh, you are talking about arms, ammunition, and implements of war. I thought you were referring to section 4.

Dr. STODDARD. I am talking about section 3.

Mr. JOHNSON. And I was thinking of the commodities provision.

Mr. LAMBETH. If you will pardon me, Dr. Stoddard, I do not want to interrupt your excellent statement, but since you have been interrupted and you are on section 3——

Dr. STODDARD. I do not mind the interruptions at all; I welcome them.

Mr. LAMBETH. I want to ask you this question. In your opinion would it improve and clarify the language at the beginning of section 3 to insert words somewhat similar to these: "Whenever in the judgment of the President a state of war exists——"

Now, I ask you that question both from the practical viewpoint and from the legalistic viewpoint, for this reason. I can conceive of conditions under which certain interests in this country, say munitions manufacturers, the President having declared that a state of war exists under the existing neutrality law, could go into court and say that under the language which is, "upon the outbreak", they challenge the statement that there is a war. Whereas, if the language is inserted as I have suggested, it would be clearly within the discretion of the President and left to his judgment, as to when war actually has started or whether a war exists.

Dr. STODDARD. Well, I think that sounds very reasonable. As I say, I do not claim to have the technical knowledge of drafting of bills. It is entirely outside my province.

So, gentlemen, in asking me these questions, you are not asking an expert. I believe I am more or less of an expert on foreign affairs. But I am not an expert on the drafting of bills.

The CHAIRMAN. We are all trying to reach the same end.

Dr. STODDARD. Exactly. What I mean is, I have laid down a general principle. It is for you gentlemen, who are learned in such matters, to effect that in the best possible way.

Mr. LAMBETH. I want to follow that with this inquiry, and I will then have finished. We are not experts; at least, I am not, certainly. My knowledge of foreign affairs is so limited that I hesitate even to interrogate you. But I ask you, as a practical question, in your opinion would it improve and clarify the language to say that "whenever in the judgment of the President", and so forth?

Dr. STODDARD. From that angle; yes. There may be other angles I do not know about. I say that you gentlemen are certainly expert in the drafting of bills—

The CHAIRMAN. No; we have experts who do that for us. We are not experts in the drafting of bills.

Dr. STODDARD. And of the significance of language as used in bills.

Mr. TINKHAM. Dr. Stoddard, notwithstanding your statement that you are not a drafter of bills, may I ask what you think of the words, "during the progress of any war" in section (a), line 18?

Dr. STODDARD. Personally, I think that phrase is not the happiest possible, because I think it would be much better if those things could be changed as I have suggested. In the first place, it says "upon the outbreak or during the progress of any war."

In these days, we are much more apt to have a state of war than a war. There is a technical distinction between the two. That was one reason, gentlemen, I wanted to give you my conception of those world conditions. I did not mean just to take your time by airing my general opinions, but I think it is very important to get that conception of world conditions.

The CHAIRMAN. Mr. Castellow made a suggestion the other day that is the best I have heard concerning this matter, and perhaps he would repeat it again.

Mr. CASTELLOW. I should be glad to state it or have the Chairman state it, if he will.

The CHAIRMAN. No; you state it, please.

Mr. CASTELLOW. What do you think of this suggestion, that that language be changed to read, that "upon the outbreak of a war or when it becomes apparent that a state of war exists,"?

The CHAIRMAN. That is the clearest statement of it that I have heard yet.

Dr. STODDARD. That is very excellent.

The CHAIRMAN. That is the very purpose of the bill.

Dr. STODDARD. That is very excellent, and it covers both phases. But you have got to take into account these anomalous conditions.

The CHAIRMAN. That is the reason it was put in here; it was discussed, and everyone who construed it construed it to mean that whenever the President found that there was a war going on, he should do so and so. Everyone admitted that it was hard to tell when a war had started.

Dr. STODDARD. Yes.

Mr. SHANLEY. May I ask a question of Mr. Stoddard at this point? Suppose in this hybrid far-eastern affair—there is no war according to all our definitions—one of the belligerents gave orders for arms, ammunition, and implements of war, in this country, of such quantities that we would be alarmed. Now, there is no war existing there. But there are all the possible effects of the war. What would you do in that case?

Dr. STODDARD. Well, that would be determined, I suppose, by the national interest. I suppose it might be possible to declare, in the judgment of the executives, that a state of war did exist there. That would not be a very far-fetched proposition.

Mr. SHANLEY. Is it the war we are interested in or the repercussions in this country that may project us into war?

Dr. STODDARD. What we are interested in is keeping out of war.

Mr. SHANLEY. In other words, if there was a war over there, and they made no demands in any way, commercially, financially, or in any way whatsoever, we would not even need neutrality legislation, would we?

Dr. STODDARD. No.

The CHAIRMAN. Very well, Doctor; proceed.

Dr. STODDARD. Gentlemen, there is one more point I would like to make in regard to this matter. As I say, I agree with the first part of section 4, down to line 24, on page 3. That is, I agree with the phraseology down to the words, "or that to refrain from placing such restrictions would contribute to a prolongation or expansion of the war."

The CHAIRMAN. May I ask you a question right there, Doctor Stoddard?

Dr. STODDARD. Yes.

The CHAIRMAN. It follows up your suggested policy. That is a fact-finding matter, for the President to determine; I mean, up to that time.

Dr. STODDARD. Yes. It seems to me that that phrase trenches upon the field of independent policy. It seems to me that it is not logical, is not in line with the thought developed in the preceding part.

Mr. CALDWELL. Your point is, that whatever is good in that phrase is preserved in the two phrases preceding; is that it?

Dr. STODDARD. I think so.

The CHAIRMAN. That is my opinion, also.

Mr. JOHNSON. The first two appertain to the people of the United States, and that appertains to other countries.

Dr. STODDARD. Exactly.

Mr. JOHNSON. In other words, this law is for our domestic use.

Dr. STODDARD. That is right.

Mr. JOHNSON. It is for our own people, whereas that other invades the province of foreign countries.

Dr. STODDARD. Absolutely. It is illogical; it is inconsistent.

Mr. JOHNSON. I think it is possible to eliminate that clause.

Dr. STODDARD. I am very happy to hear that, because it rather troubled me.

The CHAIRMAN. We are trying to reach the same end, Doctor.

Dr. STODDARD. Surely, I realize that.

Mr. CALDWELL. I should like to ask a question here, Mr. Chairman. Mr. Shanley raised the question a moment ago and it struck me as

being very interesting. In the event Japan or China made an unusually large order for munitions, which put us on notice that if a state of war did not exist, it probably soon would exist. Suppose, in the opinion of the Executive, his discretion ought to be exercised in the direction of saying that a state of war did exist. That would automatically put an embargo on arms, ammunition, and implements of war, would it not?

Dr. STODDARD. Yes.

Mr. CALDWELL. There is a certain school of thought that feels that the embargoes mentioned in section 4 ought to be mandatory and ought to be mandatorily applied upon the imposition of the embargo referred to in section 3.

Dr. STODDARD. Yes.

Mr. CALDWELL. Taking the state of fact as mentioned, it would certainly work a hardship needlessly upon the United States mandatorily to apply the embargo in section 4, would it not?

Dr. STODDARD. I cannot say that it would, because as I understand it, the aim of section 4, the placing of the restrictions, would serve to promote the security and preserve the neutrality of the United States, or to protect the lives or commerce of nationals of the United States.

Mr. CALDWELL. I am afraid you do not follow me, Doctor. I said there is a school of thought that holds that section 4 ought automatically to apply, not when the President finds those facts but that the embargo upon the commodities referred to ought automatically to apply in the event the embargo in section 3 becomes effective.

Dr. STODDARD. I see.

Mr. CALDWELL. I can conceive no facts existing that would imperil the neutrality of the United States in the shipping of any of the things referred to in section 4, to China or Japan, even if you had an embargo on the shipment of munitions.

Dr. STODDARD. Well, it seems to me, sir, that once this action under section 4 is taken, once these conditions obviously apply, the imposition of quotas—not of the general embargo but of quotas—should be mandatory.

Mr. CALDWELL. We have no quarrel there. I agree with you there. But should the embargo that is referred to in section 4 be automatically applied when you find a state of war exists?

Dr. STODDARD. Anywhere in the world?

Mr. CALDWELL. Anywhere in the world.

Dr. STODDARD. No; I do not think so. I think if Bolivia and Paraguay get into a war, I do not think it should apply. On the other hand, when these conditions exist, if the President in his discretion finds they exist, then—

Mr. CALDWELL. Well, we are in accord there.

Dr. STODDARD. And when he has enumerated the articles as he has the discretion to do, my thought then is that these quotas should automatically apply. That is, I do not believe it would be in the best interest of the country to have the Executive in his discretion withhold this quotaing process for a longer or shorter time.

Mr. TINKHAM. If that is so, then, Mr. Chairman, you do not agree with the gentleman?

The CHAIRMAN. Oh, yes.

Mr. BLOOM. He says he does, Mr. Tinkham, and he ought to know.

Dr. STODDARD. It seems to be so logical, gentlemen.

The CHAIRMAN. Here is what I understand the gentleman to say, that another declaration should be made; that the embargo mentioned in section 4 should not go into effect upon the declaration that a state of war exists.

Mr. TINKHAM. I think he means something else.

The CHAIRMAN. But that section 4 shall apply when the President finds these facts. I certainly agree with you.

Dr. STODDARD. That is, two findings.

The CHAIRMAN. Two findings, yes. What I am opposed to is this. I am opposed to the President being compelled to proclaim that a state of war exists between two small countries that might not affect us at all. We do not want to have to put an embargo on all of our trade. But if these other conditions exist, that is different.

Dr. STODDARD. Yes; exactly. He shall not have power to withhold that proclamation, in his discretion.

Mr. TINKHAM. Let us carry that a little further, because I think that is very vital in this bill. Under modern war conditions, munitions of war are not any more essential than materials used in their manufacture or in the conduct of war.

Dr. STODDARD. That is true.

Mr. TINKHAM. If, when war breaks out, the President is compelled to put on an embargo against both belligerents on munitions, why should he not be compelled, when war breaks out, to put an embargo on materials that can be used in the conduct of war, which we both agree are almost as important, if not as important, as munitions themselves?

Dr. STODDARD. Because, Mr. Tinkham—I may be wrong here—as I read this bill, and as I have listened to these discussions, it seems to me that it is for Congress and this committee to make its intent plain in the bill. It seems to me that section 3 refers to the outbreak of any war anywhere in the world.

The CHAIRMAN. It does.

Dr. STODDARD. It has become a part of our national policy, rightly or wrongly, that the United States shall not, or that a certain small section or community shall not profit by the manufacture and sale of implements of war; that they shall not become merchants of death to supply materials for the war.

Mr. TINKHAM. Why not include materials to be used for war purposes, then?

Dr. STODDARD. Mr. Tinkham, that applies to any war. In section 4 this very language says that these are wars which are not merely just any wars, but they are wars, when a condition has arisen, implying danger to the neutrality of the United States.

The CHAIRMAN. That affects the whole people, in other words.

Mr. TINKHAM. It says, "whenever, during any war in which the United States is neutral——". It says when we are neutral. That is a proclamation of neutrality. When there is a proclamation of neutrality, it means that the President has found a state of war exists. Now, my point is this. When that proclamation has been made that a state of war exists, it seems to me that materials that can be used in the conduct of war—and those would be the things that would be enumerated, such as oil or cotton or——

The CHAIRMAN. Wheat?

Mr. TINKHAM. Well, no. We exempt wheat. You will find on page 4 that foodstuffs are exempted. The language is:

Provided, that no restriction or prohibition imposed under this section shall under any circumstances be applied to food or medical supplies.

Now, I say, we have declared our neutrality; a state of war exists. Why should not materials that can be used for war purposes be included in an embargo exactly the same as arms, when they are just as necessary as arms for the prosecution of the war.

Dr. STODDARD. But would you advocate the placing of a general embargo, say, on shipments to Bolivia and Paraguay?

Mr. TINKHAM. Why, of course I should. If you are going to have a law, you must have it apply to all. Why should we send materials to Bolivia or Paraguay, which are just as essential for the prosecution of the war as arms or ammunition?

Mr. JOHNSON. Will the gentleman permit me to make this suggestion along the line of Mr. Tinkham's question? Section 3 relates to articles that are known to be used in war, arms, implements, and ammunition.

The CHAIRMAN. That has been defined.

Mr. JOHNSON. Yes; that has been defined. Now, with reference to other commodities, there are different countries, different terms, different conditions, and different wars. What commodities might be useful in one war might not necessarily be useful in another war. If Mr. Tinkham's position is sound—that is, that articles that are used in war are to be prohibited—then according to some testimony we have had here, the only logical way that could be done would be to prohibit all commerce of all kinds with that country; because under some constructions, nearly every commodity can be used and is necessary in the prosecution of a war.

In other words, if you are going to make it mandatory that all articles used in a war shall be prohibited upon the outbreak of war, then I think Mr. Ludlow's bill, which prohibits all business with a country at war, is the only bill that we could have.

If you are going to have any discretion, you must have a discretion to determine what those articles will be with reference to those countries.

Mr. TINKHAM. Discretion lies with the President to designate the articles which under the conditions that may exist, the countries at war may not have from us.

Mr. JOHNSON. I understood from your question—perhaps I misunderstood you—that you wanted us to designate the articles in the bill.

Mr. TINKHAM. No; I do not believe that the articles ought to be designated in the bill.

Mr. JOHNSON. Some witnesses, as you know, have gone that far.

Mr. TINKHAM. I believe that should be left to the President. But I cannot see why, once he determines that arms and ammunition shall be placed under an embargo, upon the declaration that a state of war exists, why there should not be embargoed also those materials which, in the discretion of the President, are considered as necessary in the prosecution of that particular war as arms and ammunition.

The CHAIRMAN. Doctor Stoddard, referring to what you have already said, the policy of the United States has been declared as to arms and ammunition which affect a very small part of our population.

Dr. STODDARD. Yes.

The CHAIRMAN. The other policy, you said, affects our whole population.

Dr. STODDARD. Yes.

The CHAIRMAN. In your previous statement you said that it might create a revolt that would absolutely destroy everything that you had gained.

Dr. STODDARD. That is right.

The CHAIRMAN. In the cases you cited, of a war breaking out between two little countries where an embargo would not be of any assistance at all in keeping down the war, because other countries would go along and furnish supplies, such as a war between Bolivia and Paraguay, no purpose would be served by an embargo.

Dr. STODDARD. That is right.

Mr. CHRISTIANSON. If you distinguish between an embargo against countries like Uruguay and Paraguay and embargoes in the event of a war between, we will say, two European countries, in which latter case we might say there is greater danger of our involvement in war, if you give the President the power to distinguish between these two classes of work, do you not necessarily put yourself in a situation where you will be charged, as in fact we have been charged by Italy, with applying an embargo in a case where the embargo operates to the disadvantage of one belligerent, but not to the disadvantage of the other?

The CHAIRMAN. Governor, you did not quite understand my point.

Mr. CHRISTIANSON. I think I understood the point you were making.

The CHAIRMAN. Let me make this suggestion. There are two provisions in this bill, providing for certain states of facts. If either one of those conditions comes about, the President has to do so and so. Why should he do it when it will be of no benefit to this country? That is the question.

Mr. CHRISTIANSON. The determination of whether it would be to the benefit of the country or not is necessarily so subject to question.

The CHAIRMAN. As Dr. Stoddard has said, we have laid down the basic principle and it is just a question of a finding of fact as to whether he has to issue the proclamation.

Mr. CHRISTIANSON. I do not think those facts are definite and certain enough to make a course of action mandatory or automatic.

Mr. CALDWELL. I should like to ask Governor Christianson this question. Do you feel, Governor, that an embargo ought to be laid when the failure to lay the embargo will not imperil the neutrality of the United States?

Mr. CHRISTIANSON. I will answer that question by saying abstractly, no; but my difficulty is to draw the line in such a way that we shall not be accused, in the event that we see fit to impose an embargo on materials like oil or cotton—that we shall not be accused, as in fact we have been recently by Italy, in the exercise of that discretion, when the situation between the two belligerents is such that the

embargo operates to the disadvantage of one and does not hurt the other, that we are taking sides.

Mr. JOHNSON. Dr. Stoddard, I think, answered that question very well. I do not know whether you were here or not, Governor.

Mr. CHRISTIANSON. Yes, I have been here all the time.

Mr. JOHNSON. With reference to an attitude that might be taken that our action was discriminatory against Italy, in the recent case, in this way. He made a very apt illustration, I think, that we were not under the duty of acting as a second in a duel, in trying to frame this legislation; that we did not necessarily have to place ourselves in the position of seeing that we did not help one or hurt the other.

Dr. STODDARD. In regard to this particular situation, this particular fracas, that is going on in East Africa, which is clearly localized and, as was said by one of the witnesses yesterday, essentially a colonial war, I think that that particular situation ought to be recognized and that this legislation ought not to apply.

But I think it ought to be very clearly set forth that if any other belligerents join in that war, in effect, it becomes a different kind of war and that then it would apply to all belligerents, including Italy and Ethiopia.

I do think the Italian Government has a just ground for complaint if we pass this bill and apply these conditions to Italy and Ethiopia, to that localized situation. I think that ought to be taken care of. Because, after all, gentlemen, it either is going to remain a localized war, in which case it would not have much practical effect on us, anyway, or it is going to broaden out into a greater war. So that if you frame your legislation with that in view, if it does remain a local war, you avoid incurring the enmity of the Italian Government and the Italian people; and if it broadens out into a great war, that situation is taken care of.

Mr. BLOOM. Dr. Stoddard, in that connection, you were here yesterday and heard the statements made?

Dr. STODDARD. Yes.

Mr. BLOOM. Suppose other nations should come into the war in Ethiopia. Then what would you say?

Dr. STODDARD. Then it becomes a different war.

Mr. TINKHAM. It becomes another war.

Dr. STODDARD. It becomes another war and all nations are included; that is, as soon as the thing ceases to be a localized war.

Mr. BLOOM. Would you say that should take effect if one other nation should join the belligerents at this time?

Dr. STODDARD. Well, of course, in all these things, you have got to take a realistic attitude. You can conceive of a condition where Albania might join in. As a matter of fact, it is very unlikely. But the Balkan situation is so tied in together that if Albania did come in, it would supply the match that would set fire to the powder barrel, and it might all go up.

What I mean is, therefore, that we can try, as I see it, to take a realistic view of this situation and not try to evolve a theoretically elegant and perfect solution, or try to square up some far-fetched and overstrained possibility that is very remotely liable to happen.

Mr. BLOOM. Several of the witnesses yesterday had different views with reference to the condition if the present war in Ethiopia were

to spread. Some said that if other nations should come into the war, then this law should go into effect both as applied to Ethiopia and Italy and others said no.

Dr. STODDARD. I know, but, of course, those witnesses were obviously speaking for Italy.

Mr. BLOOM. Do you believe if one or more nations join in the present war in Ethiopia, that this law should then go into effect?

Dr. STODDARD. For all practical purposes; yes.

Mr. GILLETTE. Mr. Chairman, if I may make a statement at this point. Now you are getting on to a matter that we discussed yesterday that is of the utmost importance from the point of view of the practical situation that now exists. You very properly, and it seems to me logically and aptly, have taken the position that there should be a differentiation in legislation as applied to a state of war that now exists.

The CHAIRMAN. The President has declared a state of war to exist.

Mr. GILLETTE. Yes. You now take the position, in the event other nations were brought into that war and it were to spread from a localized situation, that these principles that we are laying down in this legislation should apply. Now, let me ask you this from the practical standpoint. You were here yesterday and you heard my question as to what was behind this thing. Italy wants the market here in America for oil opened in the event that England, through the League of Nations, shuts her off.

Dr. STODDARD. Yes.

Mr. GILLETTE. Take this hypothetical case. England goes into this war, declares war against Italy. You say then that these principles should apply equally not only to England but to the present belligerents.

Dr. STODDARD. Yes.

Mr. GILLETTE. Then you are also shutting off that market to Italy, the market that she has here, and that under the conditions and principles of neutrality existed at the time she went into the conflict, and that she had a right to assume would continue.

Dr. STODDARD. Well, that is all right.

Mr. TINKHAM. It is a new war.

Dr. STODDARD. It is a new war; yes. I think we can definitely take that attitude. We are not concerned, after all, with benefiting Italy.

Mr. TINKHAM. Not at all.

Dr. STODDARD. We are concerned with two things. Primarily we are concerned with the interests of the United States. But, at the same time—and I get back to my thesis that I started out with—we are striving to treat this matter in order to attain realism and justice. It seems to me that we do an injustice to Italy by changing the rules of the game during the progress of the war. We ought to have taken care of this matter, or, we might well have taken care of this matter, last summer. But it was not done. But I think if we take that attitude, that this is a localized situation, we can take her own declaration, we can take the words out of her own mouth. These gentlemen who testified yesterday, these Italian-Americans, undoubtedly presented the Italian official case. They say that this

is a punitive expedition, this is not a real war. It is just like our chase after the bandit Villa in Mexico.

Mr. LAMBETH. They say it is a colonial expedition.

Dr. STODDARD. Yes; a colonial expedition. We can legitimately use her own language and say that we are not going to change the rules of the game; we realize that in this particular fracas down there, that it is a localized, colonial episode, and we are not going to invoke these great principles. But, if at any time, it broadens and becomes an honest-to-goodness war, then these principles shall apply, and we cannot make an exception. But that we are making a temporary exception as a gracious gesture.

Mr. BLOOM. Doctor, you said that if England should come into this war between Italy and Ethiopia, it would be a new war.

Dr. STODDARD. It certainly would.

Mr. BLOOM. But it would not be a new war as applied to Italy and Ethiopia, would it?

Dr. STODDARD. Yes; it would, in every way, except in a very technical and legalistic sense, and I believe we have got to get away from legalisms.

Mr. KLOEB. Getting back to legalisms, when a member of a partnership dies or resigns, that partnership terminates. When a new partner comes into the partnership, they form a new partnership; that is right?

Dr. STODDARD. Yes.

Mr. CALDWELL. And in this hypothetical case, it ceases to become a war between Italy and Ethiopia and becomes a war between Italy and England.

Dr. STODDARD. Yes.

Mr. SHANLEY. Do you think we could put an omnibus quota on at the beginning of a war, mandatorily applied, excluding all shipments except the normal and with no delineation of articles? We would say to all people, "We will ship you just as much as we did during the normal period", that period to be decided by the President, or within a prescribed period?

Dr. STODDARD. It would be possible to do it, I suppose, but I do not know. I have not thought about it. I had not thought about the implications of it.

Mr. SHANLEY. That is what we are doing here, except here we pick out certain articles or materials, and give a discretionary power to the President to deal with them.

Dr. STODDARD. Yes.

Mr. SHANLEY. Why not use an omnibus provision over all normal shipments—that there shall be no more and no less—at least no more.

Dr. STODDARD. I do not know. There is a great deal to be said on both sides. I hate to give an off-hand, snap judgment on it, because I have not thought of it.

Mr. SHANLEY. I would like you to consider that, because we have commercial treaties with these nations. We have a treaty with Italy of which this is article XIII. I will read it hurriedly for the record.

The high contracting parties having agreed that a state of war between one of them and a third power shall not, except in the cases of blockade, and contraband of war, affect the neutral commerce of the other, and being desirous of removing every uncertainty which may hitherto have arisen respecting

that which upon principles of fairness and justice ought to constitute a legal blockade, they hereby expressly declare, that such places only shall be considered blockaded as shall be actually invested by naval forces capable of preventing the entry of neutrals, and so stationed as to create an evident danger on their part to attempt it.

Now, article XV—and this, I understand, is in another treaty—provides:

The liberty of navigation and commerce secured to neutrals by the stipulations of this Treaty, shall extend to all kinds of merchandise excepting those only which are distinguished by the name of contraband of war. And, in order to remove all causes of doubt and misunderstanding upon this subject, the contracting parties expressly agree and declare that the following articles and no others shall be considered as comprehended under this denomination.

1. Cannons, mortars, howitzers, swivels, blunderbusses, muskets, fuses, rifles, carbines, pistols, pikes, swords, sabres, lances, spears, halberts, bombs, grenades, powder, matches, balls, and all other things belonging to and expressly manufactured for the use of these arms.

2. Infantry belts, implements of war, and defensive weapons, clothes cut or made up in a military form, and for a military use.

3. Cavalry belts, war saddles, and holsters.

4. And generally all kinds of arms and instruments of iron, steel, brass, and copper or of any other materials, manufactured, prepared, and formed expressly to make war by sea or land.

That merely delineates in this case the contraband of war which here includes nothing more than arms, ammunition, and implements of war.

Now, with that understanding, and with the further understanding that this has been more or less foreseen, because we brought this treaty up to date with the supplementary treaty of 1913, will there be a contravention of the treaty if we extend the articles to such key materials as chromium, vanadium or tungsten, scrap-iron, or other materials?

Dr. STODDARD. I do not know. I cannot tell you, because I am not an expert on international law. I am not an international lawyer. I do not know.

Mr. FISH. Mr. Chairman, I should like to ask Mr. Stoddard a question. I think the last time I saw you, I had dinner with you in Constantinople.

Dr. STODDARD. That is right.

Mr. FISH. Can you remember the words you used just a few minutes ago—I was impressed with them? You said we were not concerned with benefiting Italy.

Dr. STODDARD. Yes. At the beginning of my remarks I said that the goal of true statesmanship should be to try to act with both realism and justice.

Mr. FISH. That was it; realism and justice.

Dr. STODDARD. That is right.

Mr. EATON. Can we adopt this rule without violating our solemn treaty with Italy?

Dr. STODDARD. I do not know, I cannot tell you. It is a technical question. I am not an international lawyer.

Mr. EATON. If we do thus violate our treaty, would it not be considered by Italy as a declaration of war on our part?

Dr. STODDARD. A commercial treaty? No.

Mr. CALDWELL. No; not if the neutrality of the United States is involved.

Dr. STODDARD. That is why I believe it is so necessary to avoid any suspicion of injustice toward Italy by not taking into account this present fracas between her and Ethiopia.

Mr. GRAY. You take the position that the rules for the new war should be declared before the new war.

Dr. STODDARD. Yes; they should be laid down. This is my opinion. This exemption should be made more or less as an act of grace, as a gracious gesture, recognizing that it would be more just not to change the rules of the game, and recognizing that this is a local affair.

The CHAIRMAN. Is there anything further on section 4, gentlemen?

Mr. RICHARDS. I am sorry I did not hear the first part of your statement. I was interested in whether or not the logical conclusion from what you have said about that section involving materials of war, where the war is what you call a local war, is that you believe in outlawing munitions of war. Is that your position?

Dr. STODDARD. I said this. As I understand, it has become a definite part of the policy of this country that our munitions makers and the other small groups who may be involved shall not directly benefit by the sale of arms and munitions to warring countries anywhere in the world.

Mr. RICHARDS. Justice to small groups and justice to the whole would be the same thing, as a matter of principle.

Dr. STODDARD. Yes; and it ought to apply throughout.

Mr. RICHARDS. We are not talking expediency now.

Dr. STODDARD. That is correct. It may be right and it may be wrong; it may be sentimental or it may be sound—I am not discussing that. But that obviously has become the policy of this country and has the backing of public opinion. And as I understand it, this section 3 is the effectuation of that policy and that state of the public mind.

Mr. RICHARDS. You think that is the right policy?

Dr. STODDARD. Yes. I think, on the whole, it is. There is a lot to be said about it, but on the whole, I think, it is probably sound.

Mr. CALDWELL. Allow me to make a restatement of your position on sections 3 and 4. You agree that upon the outbreak of any war the proclamation referred to in section 3 ought to be made?

Dr. STODDARD. Yes; on the existence of a state of war.

Mr. CALDWELL. But that the embargo referred to in section 4 ought to be imposed only when such imposition will serve to promote the security and preserve the neutrality of the United States, or to protect the lives and commerce of nationals of the United States?

Dr. STODDARD. Yes.

The CHAIRMAN. With the exception of the present war?

Mr. CALDWELL. I am in accord with that.

Mr. TINKHAM. May I call your attention to this? You say that there would be great pressure brought by various interests, both at home and abroad, were discretion to be reposed in the President, the United States being a great storehouse of supplies.

Dr. STODDARD. Yes.

Mr. TINKHAM. If you leave it discretionary with the President to impose an embargo on materials that can be used in the conduct

of war, as is provided here, you will instantly have that pressure brought to bear one way or the other to influence the President not to impose an embargo, according to the interests of those people who would be favored by no embargo.

Dr. STODDARD. I realize that perfectly, sir.

Mr. TINKHAM. You leave the discretion to him; you say that when the President shall find that the placing of restrictions on the shipment from the United States to belligerent countries of certain articles or materials used in the manufacture of arms, and so forth, and so forth. In a modern war, let us say in Europe, you would have the President, possibly under great pressure from groups here, and certainly under great pressure diplomatically, not to impose an embargo, and thereby favoring one side or the other. Take the German-English war. If the President, in that war, had had discretionary power to proclaim an embargo on certain materials which are just as essential to the conduct of war as arms and ammunition, think of the pressure that would have been brought upon him by one side or the other. You stated, as a general proposition, that you felt that that pressure should be eliminated.

But under the language of the bill you give the President complete option as to when he should put on an embargo.

Dr. STODDARD. My whole thesis here has been that Congress shall make its general ideas and its lines of policy so explicit—

Mr. TINKHAM. Well, they are not explicit. We leave it open.

Dr. STODDARD. Of course, if Congress cannot do that—I am assuming that you gentlemen can frame an act embodying clearly your general line of policy and your ideas and frame it so clearly that the President's role shall be much that of a court taking judicial notice of certain things that exist. Now, if you cannot do that, I retract everything that I have said.

Mr. TINKHAM. He is given full authority to do what he wishes at any time in relation to certain materials.

Dr. STODDARD. Yes; as the bill stands. It ought to be amended, as I suggest. Of course, if it cannot be done, then I withdraw. And I suppose we will have to have that hard and fast automatic thing. Only I realize that it is going to work a great deal of hardship to American interests in a case, such as I have illustrated, in a war between Bolivia and Paraguay. We might lose our trade with both those countries. I am trying to take a realistic and practical view of this matter.

Mr. TINKHAM. We lose our trade in those materials which the President may select as essential to the conduct of war in a particular situation.

The CHAIRMAN. It seems to me, gentlemen, you have had that question out, and you know each other's views; I do not think there is any use of prolonging the discussion further.

Mr. TINKHAM. I did not know the gentleman's views.

The CHAIRMAN. You invited the gentleman here. But I was referring, Mr. Tinkham, to the views he has expressed since he has been here. I did not bring the gentleman here, but I am delighted that he came. I will say that.

Mr. TINKHAM. I am like the lawyer, Mr. Chairman, I am surprised. [Laughter.]

Dr. STODDARD. I do not think this bill as it stands—it does lay down that proposition.

Mr. GILLETTE. Mr. Stoddard, may I interrupt you there? I am interested in interrogating you along different lines, as long as we are discussing underlying policies. For one, I have serious doubts of the efficacy of this type of legislation to keep the United States out of war unless we have the will to do so.

Calling attention to this morning's Herald in Washington, that paper quoted a distinguished member of the body on the other side of the Capitol as saying that we were going to enact a neutrality bill here that would effectually maintain our freedom of the seas and at the same time keep us on a basis of strict neutrality in any future conflict. And the Herald, that biased publication, enthusiastically agreed with him.

What do you think of the possibility of framing that type of legislation?

Dr. STODDARD. It seems to me, gentlemen, that all this talk about freedom of the seas is flogging a dead horse, because every attempt to enforce our so-called neutral rights, those rights which crystallize around the phrase, "the freedom of the seas", refers to noncontraband of war. The old distinction between contraband and noncontraband no longer exists. It was blown sky-high by the late war and practically any belligerent can write his own ticket and can put anything that they please on the contraband list.

And unless we are prepared to get up a noncontraband list of our own and try to ram it down everybody else's throat, the freedom of the seas does not mean any more than the worship of Jupiter, today.

Mr. GILLETTE. I thank you, sir.

Mr. CHRISTIANSON. There are two schools of thought as to maintaining peace with the world. One is that we should join with other nations to prevent the outbreak of a war, and the other is that we should more or less isolate ourselves from wars that may break out. What is your view as to the correct attitude?

Dr. STODDARD. It seems to me, sir, that as the world is made today, it is not organized to insure lasting peace. The covenant of the League of Nations and the whole League procedure is today and has been for the last 15 years an attempt to perpetuate a very imperfect—to use a mild term—status quo. What the League may become in the future, I do not know. I am not opposed to the League in principle. It might be that by some combination of circumstances, the calling of an international convention, such as suggested by Samuel Hoare, the gradual equalization of living standards and population pressures, and so forth, you might, two or three generations hence, get a condition where you had a general stabilization and the growth of a genuine world public opinion. But as it is today, I see no way of insuring lasting peace by existing methods.

I cannot see that the United States has a vital interest in either of the storm areas, a direct interest in either Europe or the Far East, and any intervention that we might make would be necessarily a partisan intervention for the benefit of one side or the other.

We certainly cannot impose our solutions upon both. Therefore, I believe that the United States should not mix in the quarrels that are brewing either in Europe or the Far East.

Mr. CHRISTIANSON. You have given me the answer that I expected. That leads up to the second question, and that is, the policy of this country is not to lend ourselves by giving sanctions at the behest of the League of Nations. We should not, then, in this law, and particularly in section 4 thereof, give the President any discretion which would permit him to back up the sanctions of the League of Nations and take the consequences to this country which might result from that action.

Dr. STODDARD. No; I do not think so.

Mr. TINKHAM. Then you agree with my proposition?

Dr. STODDARD. I agree with your proposition wholeheartedly if it is impossible for Congress—

The CHAIRMAN. I agree with what the Governor said.

Dr. STODDARD (continuing). To lay down general rules.

The CHAIRMAN. I think we understand your views, Doctor. Let us proceed, gentlemen.

Mr. RICHARDSON. If I may ask a question, Mr. Chairman. You made the assertion in your answer to Mr. Christianson here, that you believed that in these possible conflicts that seem imminent in Europe and in Asia, we have no vital interest.

Dr. STODDARD. Directly.

Mr. RICHARDSON. As far as you see.

Dr. STODDARD. We are not directly involved.

Mr. RICHARDSON. Let us see. We have over in Europe a country or an organization known as the Soviet Union which, under its constitution, is not a national state, but is an organization of republics, with the avowed purpose of eventually having all nations of the world become republics in that Soviet Union.

We have also over there an organization known as the Comintern, which is legally separated from the Soviet Union organization or government, that has for its avowed purpose—whether they are putting it into effect or not at this time—the fomenting of revolution, to bring every one of the nations of the world into that Soviet Union as a republic.

That has been looked upon by our friend, Mr. Tinkham, and also by Mr. Fish, as a most terrific threat to the fundamental interests of the United States of America, threatening all of our free institutions and probably a great many of us agree. In all events, it is an arbitrary form of government, without the liberty that we consider essential.

We also have over there Mr. Hitler, in Germany, and Mr. Mussolini in Italy, representing collectivized forms of government, not similar but on the same theory, which also theoretically and, for their purpose in actual operation, destroy most of these liberties and traditions that we consider essential in our country.

I believe that any European conflict that might occur will involve the strengthening or the weakening of the power of those arbitrary forms of government, those institutions.

Do you not think that vitally affects the interests of the United States; that our vital interests are not purely physical and geographical?

Dr. STODDARD. I will say this, sir. Of course, in the first place, there should be a distinction made between the Soviet Union and

the Fascist organizations, because the Third Internationale exists to promote and foment world revolutions. It comes over here, its agents come over here, to try to upset our form of government.

Mr. RICHARDSON. Do you think that our vital interests would be affected in a war between that form of government on one side, and say Great Britain, or some form of democratic government on the other?

Dr. STODDARD. Well, of course, I cannot look at this situation as all black and all white, as an array of devils against angels.

Mr. RICHARDSON. I do not mean from the viewpoint of right or wrong, but with a view of protecting our own institutions, we might have an interest, at least, in such a conflict.

Dr. STODDARD. Not an interest which would justify us in going into war and abandoning neutrality.

Mr. RICHARDSON. It is true that under this legislation we close the door absolutely to taking any action whatsoever to protect such an interest short of going to war?

Dr. STODDARD. Yes. But I think we have got to take such a stand. There again, gentlemen, you cannot have perfection in anything. As I say, I have not tried to lay down hard and fast rules. It would be very impertinent for me to do so.

I understood that my province before you is that of a man who has studied these questions for over 20 years and necessarily I see the picture of the whole. And when you see the picture as a whole, you do not see things as sharp blacks and whites. You see them all as more or less shadings of gray. We see a lot of elements on one side and elements on the other. I have not been trying to recommend specific things so much as I have tried to present to you certain general lines of policy and certain general situations, and it is for you gentlemen to effectuate those lines of policy.

I want to make myself clear. There seems to be amongst some members of this committee a little bit of misunderstanding about my attitude with regard to this situation. All that I said was that if it was possible for Congress to make its intent so clear and lay down its line of policy that the role of the President in these matters would be that of a fact finder, akin to the obligation upon a judge to take judicial notice of certain things when they are brought to his attention—if that is possible, all right. Then I consent in a certain line of action.

But if, on the other hand, that is impossible or impractical, then I believe we will have to sacrifice certain commercial interests; that we will have to resign ourselves to losing our trade in certain countries—such as the instance of Bolivia and Paraguay that I gave—in order to attain the larger objective of preserving our neutrality and preventing the Executive possibly from yielding to the influence of certain interests, or the cry of a factional clamor, or something like that.

Mr. RUDD. If we do take judicial notice, with respect to section 4, does not section 4 become an ex post facto law with respect to Italy?

Dr. STODDARD. I have clearly said that we must make an exception, in my mind, of this present Italo-Ethiopian business, this little episode in Ethiopia.

Mr. LAMBETH. Doctor, I should like to ask you a question. I want to thank you first for your statement. I am glad you stated that you were not an expert.

Dr. STODDARD. That what?

Mr. LAMBETH. I am glad you stated that you were not an expert. Your statement has been very illuminating and the best characterization that I could give it would be that it is good common sense.

Dr. STODDARD. I thank you, sir.

Mr. LAMBETH. It has been practical, realistic, and not dogmatic. You have not come here to "sell us a bill of goods."

Dr. STODDARD. Not a bit.

Mr. LAMBETH. You have come here to try to help us, when we are grappling with a tremendously difficult problem.

Dr. STODDARD. Absolutely.

Mr. LAMBETH. Having said that, your statement has been so thoughtful and so thought-provoking, that I have written down a few questions which I should like the privilege of asking you without interruption; and I should like categorical answers, not because I am attempting to "put you on the spot", but in the interest of time, and if they require some explanation, that is your privilege, of course, sir.

Dr. STODDARD. Yes, sir.

Mr. LAMBETH. I am sure you will understand that I am not trying to trip you up at all.

Dr. STODDARD. Of course.

Mr. LAMBETH. Some of these matters you have already covered, but in order to sum up your position, before you leave the committee, I will touch on them briefly.

It has appeared to me, as we have gone along with these hearings, that there have been at least three schools of thought; there are many, but at least three. First, we have those international lawyers, who are experts, who come before the committee and give us a lot of information, but frankly, from my point of view, not any satisfactory conclusions as to what kind of a bill we should write. They have pointed out the dangers of any legislation. Therefore, they apparently lean to the view, which I might call the extreme right, which says, "Make it as brief as possible, because you may get into such complications that your neutrality policy will become a boomerang."

Second, we have the extreme left, those complete isolationists and extreme pacifists, whose policy might be summed up in the expression, "Peace at any price."

Then we have a middle-ground position which I think is represented by the McReynolds bill. Of course, none of us think that it is a perfect bill. It will not be perfect when it comes out of this committee or out of Congress. But I believe your position leans toward that middle ground; am I correct in that assumption?

Dr. STODDARD. That is correct.

Mr. LAMBETH. With that frank statement, I wish to proceed to ask you these questions.

Does not this bill, in your opinion, from a practical viewpoint, represent almost an irreducible minimum of discretion to be left in the exercise of the Executive?

Dr. STODDARD. With the changes and amplifications I have suggested.

Mr. LAMBETH. Do you favor the surrender or the renunciation of our so-called neutral rights, in order that this policy may attain its objective?

Dr. STODDARD. If you mean the freedom of the seas, I don't think it amounts to a damn anyway, so it does not make any difference.

Mr. LAMBETH. Very good; you have answered the question. I know that you have covered some of these points and you will pardon me if I repeat them. I will run through them very quickly.

Dr. STODDARD. Certainly, sir.

Mr. LAMBETH. Do you favor section 4 in its present form, or, if not, what amendment will you suggest to section 4?

Dr. STODDARD. I think I have indicated. Briefly, I would strike out the language,

or that to refrain from placing such restrictions would contribute to a prolongation or expansion of the war.

The CHAIRMAN. With the exception of the present war?

Dr. STODDARD. With the exception of the present war.

Mr. LAMBETH. In that connection, I want to ask you another question, following somewhat the question of Governor Christianson. Do you oppose any effort or any provision or what might be called leeway, perhaps, in this bill, that would permit our government, in the conduct of its foreign affairs, to help those nations who sincerely desire peace, to prevent war, upon the theory that the longer a war continues or the more countries become involved in a war, the more likely we are to be dragged into it, whatever our avowed neutrality policy may be?

Dr. STODDARD. Yes, sir; I do.

Mr. LAMBETH. You want some way left open so that we can use our tremendous moral and economic influence to help avert a world war, upon the theory that the bigger it gets the more the danger of our getting into it. Your answer is "no" or "yes" to that question?

Dr. STODDARD. I would not have us enter into that dangerous policy.

Mr. CHRISTIANSON. Supplementing Mr. Lambeth's question, you believe if such a situation should arise, the question should be put up to and decided by the Congress instead of by the President?

Dr. STODDARD. Exactly.

Mr. LAMBETH. Very good. Now, if I may proceed, I want to ask you another question. We all recognize that this bill, or any really effective neutrality bill, will cost us something in the way of trade. In order to reduce that cost to a minimum, without impairing the objective, can you suggest any changes in the McReynolds bill?

Dr. STODDARD. Not along that line. I want to say here, I believe this whole idea of the tremendous value of war trade is largely a delusion. I will not take up the time of the committee on that question now; but, as a matter of fact, I have an article appearing on that very subject in which I deal with it in considerable detail, in the February issue of the American Magazine, which I understand is to be out on the stands today. That deals with that whole question, and if you would care to read it into the record, or make it part of

the record, I should be very glad to have you do so. I was not able to get a copy of it today.

I have studied this question very particularly and I have come to some rather startling conclusions. Briefly, it is this—that war is essentially a destructive process and everything touched by that process is more or less abnormal. War markets are abnormal, markets which are bound to vanish when the exigencies of the war are over, in the immediate post-war period. By playing for those markets, we inevitably step up both our agricultural and our industrial life to a degree unwarranted by economic realities, and that is bound to work more or less damage to us thereafter when the war is over.

I think the touchstone of this whole business is the credit factor. I believe that doing war trade on credit, if it is a big war, today, is a disastrous performance. I think it is to that factor that many of our present economic ills are due.

We are bound to lose something, anyway, even if we did business on a cash-and-carry basis, because prices would get out of line; and you would find even those countries that preserved their neutrality, such as Scandinavia and Holland and Spain, went through a deflationary period that wiped out much of their gross gains and the net was not very large, if large at all.

The CHAIRMAN. While you are on that subject, what do you think about the idea of conducting a cash-and-carry business?

Dr. STODDARD. It seems to me, Mr. Chairman, that the holding down, the quota-ing of nations, is a very wise provision, to keep that cash-and-carry trade within bounds. There is, at present, in this country, an unprecedented amount of foreign capital. I understand that there is nearly 10 billion dollars of foreign capital in this country, fully half of it what is generally termed "nervous money", largely invested in our highest grade stocks and bonds. It would be possible to mobilize several billions of dollars for a cash-and-carry trade in this country today, and that would tend to throw our economic life out of line. Then would come the time when the cash began to give out and we would find that we had erected a structure out of line. There would be tremendous pressure to avoid deflation and a depression by continuing it, just as we did the last time, on a credit basis. So I think the system of quota-ing is an excellent way of keeping that structure even on a cash basis, for not getting too much out of line.

Mr. LAMBETH. To hurry on to a conclusion, Doctor Stoddard, I had no desire to start a controversy or to evoke any argument. I am simply trying to get for my own information a summing up of your views on certain points that I personally regard as very important. Now, this question:

In your opinion, will this bill lead to reprisals in the form of trade compacts against us by foreign nations? I am thinking of the effect on our peace trade more than our war trade. And what will be their position, in your opinion, when and if we need certain essential raw materials from abroad, such as tin, rubber, and silk?

In other words, put yourself in the position of a foreign government. Let us say that Japan finds that she cannot get the things that she needs from us, or Italy cannot get oil, or Great Britain cannot get certain things from us—and let us remember that Great Britain

controls 80 percent of the tin of the world—what would be their position?

Dr. STODDARD. I think that there might be reprisals; I think that there might be losses. But I think that must be subordinated to the larger end.

Mr. LAMBETH. That answers the question, thank you. Now, this question: After listening to the discussion yesterday—and I understand you were here during most of the discussion yesterday—do you recommend merely an extension of the existing neutrality act or an amendment to the McReynolds bill that it shall not apply in any of its provisions to present belligerents?

Dr. STODDARD. Yes; I do.

Mr. LAMBETH. You have already covered that, I know. You believe in that position?

Dr. STODDARD. Yes.

Mr. LAMBETH. Now, this final question: Do you think that section 3 should be amended by providing that exceptions might be made when and if Latin American countries become involved with non-American powers? Is my question clear?

Dr. STODDARD. Yes.

Mr. LAMBETH. I am thinking of the Monroe Doctrine.

Dr. STODDARD. Yes; and I am thinking of the Monroe Doctrine, too. I hate to give an offhand reply to that. I had not thought about it. But it seems to me there is a lot to be said for that.

Mr. LAMBETH. You mean that you would lean toward favoring that amendment, offhand?

Dr. STODDARD. Offhand, I would.

Mr. LAMBETH. This final conclusion. In general, if you were a member of this committee, you would favor the McReynolds bill with the amendments already suggested in your testimony, in preference to any of the other bills including the so-called Nye-Maverick bill or the Ludlow bill? You think the McReynolds bill, with the changes you have suggested, comes nearer to meeting your views than any other specific bill now before the Congress?

Dr. STODDARD. Yes, sir; I do.

Mr. LAMBETH. Thank you, Doctor.

Mr. FISH. Mr. Chairman, we only have about 10 minutes more remaining of this morning's session. Mr. Grant Smith has been waiting here for 2 days to testify.

The CHAIRMAN. He says he is enjoying it.

Mr. FISH. Before we hear him, I would like to ask, are we going to meet tomorrow and is the Secretary of State coming here tomorrow?

The CHAIRMAN. The Secretary of State is coming just as soon as he can finish on the Senate side.

Mr. FISH. Then you think he will be here tomorrow?

The CHAIRMAN. I do not know.

Mr. FISH. Of course, you will notify us by telephone if he is to be here tomorrow?

The CHAIRMAN. The members will be notified. I would like to get through with Mr. Grant-Smith, if the committee is willing to continue. Dr. Stoddard, I want to thank you very much for your appearance here this morning.

Dr. STODDARD. It has been a privilege, gentlemen.

The CHAIRMAN. You have been very helpful to us, and we appreciate your coming here. You have expressed better than some of us could the principles underlying this bill.

Dr. STODDARD. Thank you, sir.

Mrs. ROGERS. Mr. Chairman, I would like to ask the gentleman one question. But before I do, I want to state that the other witness, Mr. Grant Smith, we are to hear ought to have more than 10 minutes. Cannot he be heard tomorrow?

Mr. EATON. May I be permitted to ask Dr. Stoddard a question?

Dr. STODDARD. I should be glad to wait here as long as you gentlemen want, and answer any supplementary questions you wish to ask.

Mr. SHANLEY. May I suggest that Dr. Stoddard's article, to which he has referred, be made a part of the record?

Dr. STODDARD. It is an article—I believe they have called it—"Can War Make Us Rich?"—in the American Magazine, which is a Crowell publication, February issue, which is out on the stands today.

Mr. BLOOM. Will you permit me to suggest that you see the reporter gets a copy of it, so that it may be put in the record?

Dr. STODDARD. I have not been able to get a copy of it yet.

Mr. BLOOM. I think you should furnish every member of the committee with a copy.

Dr. STODDARD. I would have to pay for it. [Laughter.]

Mrs. ROGERS. May I ask you this question? As section 4 is written, is it not in effect a bid for immediate trade with the other countries to buy our materials of war; it would practically give them a bounty because they would have the knowledge of this quota system about to be put into effect and would begin immediately to buy materials of war in order to bring their quota to a high level.

Dr. STODDARD. I cannot read that specific intention into it.

Mrs. ROGERS. And then later on we will be cut off practically in our trade with other countries, including neutral countries?

Dr. STODDARD. I cannot quite see how that is possible.

Mrs. ROGERS. Why does it not do that?

Dr. STODDARD. Are you getting back to the question of the freedom of the seas? We are not going to contest the freedom of the seas. I think that is pretty definite.

Mr. BLOOM. Mrs. Rogers, is this confidential, or may we all hear it?

Mrs. ROGERS. I think section 4 ought to be considered very carefully.

The CHAIRMAN. It is being considered carefully. It is about all that we have considered here today.

Mrs. ROGERS. I do not think we have heard sufficient on it.

The CHAIRMAN. Were you here all the time, Mrs. Rogers.

Mrs. ROGERS. Not all of the time.

The CHAIRMAN. You ought to have been here. The witness discussed it for an hour.

Mrs. ROGERS. I am not convinced that he is right. He is not the only person in the United States who has made a great study of neutrality and international law. I should like to hear Frank Simonds, Charles Warren, Allen Dulles, and others.

Mr. BLOOM. So there is no use of being here!

Mrs. ROGERS. I think it is the most serious thing that we have had under consideration. Remember we are supposed to pass permanent legislation.

The CHAIRMAN. I agree with you.

Mr. EATON. And the most difficult.

I would like to ask this question: The object of this whole work that we are in now is to keep our country out of war and so far as possible restrain other countries from getting into war. We have that in mind. We do not want other nations to fight any more than we want to fight ourselves. You quoted Canada and this country as an illustration. For nearly 125 years these Nations have been living side by side in perfect peace. Why? For two reasons: First, they have the same moral concepts; they have the same moral standard. We are practically identical in that. Second, they have a rootage and the same conception of justice which made it possible for us to create an international commission or other judicial commissions to solve any problems that may arise between the two countries. And when any decision is given on any disputed point, if it is against Canada, all the newspapers announce is that the Canucks have been beaten, and then everybody goes on about their business. They know that justice has been done. If it is against us, we do the same and the newspapers say that the Canucks have licked us and we go on about our business.

This legislation is just an attempt to shift over in the world from duelling between nations. It is an appeal to law. Some day it will come to pass just as it came to pass as between individuals.

Now, the question I want to ask you is, even though we have different standards of morals and different concepts of justice, and our rootage is in different ancestries of thought, is not the proposed World Court, even in its present imperfect condition, one step in advance toward solving the problems of war between the nations, by having them appeal to law and justice rather than arms and brute force?

Dr. STODDARD. Possibly, but a very small step.

Mr. EATON. Why?

Dr. STODDARD. Because until the causes of war are removed, in various parts of the war you are going to have war arise as a by-product, as I have indicated.

Mr. EATON. A necessary byproduct?

Dr. STODDARD. A necessary byproduct.

Mr. EATON. Then this legislation of ours, in your opinion, ought not to be either white or black, but gray.

Dr. STODDARD. It ought to hew to the line of our keeping this country out of these wars. That is the paramount thing. Everything else is subordinate.

Mr. TINKHAM. How are we going to keep out of war, if, for an indefinite period, we are going to send materials that can be used in the conduct of war at the option of the President as provided in section 4?

Dr. STODDARD. As the thing stands—I do not think it ought to stand as it now stands—I think the intent of Congress ought to be clearly stated, so clearly that the President becomes a fact finder and does not have an independent policy in that matter.

Mr. TINKHAM. In other words, you think that ought to be mandatory.

Dr. STODDARD. Mandatory in the sense that I have indicated, that when he finds a certain state of facts—certainly then it ought to be mandatory.

The CHAIRMAN. It is mandatory upon finding certain facts.

Mr. BLOOM. May I ask you a question, Doctor? In your answer to Dr. EATON, you said that the World Court was a very small step. Do you think you should consider, not how long or how large the step is, but the fact that the step is in the right direction, anyway?

Mr. FISH. What step?

Mr. BLOOM. The World Court.

Mr. FISH. Is the World Court before us now? If it is, I would like to make a speech.

Mr. EATON. In that case, I think we ought to adjourn.

Mr. TINKHAM. I want to make a statement right here—

Mr. BLOOM. I am not asking the gentleman. I am asking Dr. Stoddard. I would like to have an answer to my question. I asked Dr. Stoddard—

Mr. TINKHAM. He has answered it.

Mr. BLOOM. If he has, I have not heard it.

Dr. STODDARD. I will tell you why I consider it a small step.

Mr. BLOOM. Yes; but the direction?

Dr. STODDARD. Because I think there is a very dangerous confusion in the public mind in regard to present international law. I have long maintained that there is not any such thing as international law. There is what I would call international comity, but not law as we mean law in the domestic sense. In order to have international law in the domestic sense of law we would have to have a court, a code, a sheriff, and, most important of all, world public opinion, which does not now exist. Now, none of those things exist in respect to international law.

Mr. JOHNSON. That has not a thing in the world to do with this bill.

The CHAIRMAN. Now we are going to hear Mr. Grant-Smith.

Mr. TINKHAM. I should like to make one statement before that, Mr. Chairman.

The CHAIRMAN. Not on the World Court.

Mr. TINKHAM. Am I denied the right to make a statement?

The CHAIRMAN. Not on the World Court. I am again following the will of the committee on that.

Mr. FISH. Mr. Grant-Smith, will you step up?

CAN WAR MAKE US RICH?

[By Lothrop Stoddard]

With another great war in the making, a noted authority on world affairs shows why the hope of prosperity from war-trade profits is a hollow mockery.

The world today is like a powder house. Only a spark is needed to touch off a big explosion. Anybody who really knows world affairs will tell you that another great war is due within the next couple of years.

Just now the chief concern of Americans is whether or not we can stay out of war when it comes. And, while we debate the question, there is a widespread belief that a general European war may be of tremendous benefit to this country if we can maintain a neutral position and sell our goods to belligerents and to

other neutrals who have been accustomed to obtaining such goods from the belligerents.

This growing belief that war trade can bring in prosperity is founded on a dangerous delusion which, if persisted in, may cause America to emerge from the next period of war heavy losers, even though we succeed in keeping out of the war itself.

We need only recall our experiences in the last war. Our first thought, when Europe suddenly exploded in 1914, was to thank our lucky stars that we weren't mixed up in a mess that in no way concerned us. Our second thought was how we could make some money out of it. For it looked as though there was big and easy money to be made. A flood of war orders pouring in from Europe quickly swelled our export trade to unheard-of proportions. America was launched on its fabulous war boom that brought us prodigious seeming prosperity with no apparent drawbacks until we, ourselves, entered the war and began paying out more than we took in.

That golden age of our last neutrality still haunts our imaginations. What many Americans would really like is to find some way of repeating the performance without paying the penalty. All the more necessary, therefore, to get down to bedrock realities by analyzing the true nature of war trade. And in doing so we shall discover that those imaginary billions in war profits turn out to be "fool's gold."

Our mounting exports in the war boom which began in 1914 were not true trade. That trade was not an exchange of goods for goods; it was one-way traffic—a handing over of vast quantities of our products with no corresponding receipt of foreign products in return. That implied heavy commercial balances in our favor; balances which, according to the ordinary rules of the game, would have to be speedily settled.

For a short time, those balances were genuinely liquidated. Since the warring nations with whom we were doing this strange new business could not pay what they owed us in goods, they did so to some small extent by sending us gold, but mainly by reselling to us our own securities. In 1914, America was a debtor nation. More than \$5,000,000,000 in foreign capital had been invested in the United States—mostly by England and France—the very nations with whom we were doing most of our war trade. Therefore, the British and French Governments mobilized American stocks and bonds held by their citizens and used those mobilized securities to pay for the war-trade goods we sent them.

Our temporary good fortune blinded us to the underlying realities. We were doing a whale of a business at juicy profits, and we were getting paid on the nail. We were also freeing ourselves from foreign indebtedness.

But before long, Europe's available gold gave out, and the stream of mobilized securities began to run dry. Yet Europe's ard demands became ever greater; its hunger for American goods grew well-nigh insatiable. The warring nations were long on wants but short on cash. They wanted everything; yet, for the moment, they could pay for almost nothing. What they could do was promise to pay. Payment, however, would have to be spread over a long period. In other words, further large-scale business with Europe must become a process of selling on the installment plan.

These long-term I O U's, these naked foreign promises to pay, were the basis of our marvelous war prosperity of 1916, while we were still neutral. They were the unsupported promises of nations engaged in a death grapple so destructive that, if long continued, bankruptcy would be almost inevitable. And yet apparently nobody stopped to think that they might not be honored.

Meanwhile, our flamboyant war trade lost us our neutrality and plunged us into the Great War, with attendant losses of American lives and billions of American dollars officially loaned to Allies who have since practically repudiated their debts. But we need not go into that, because the evidence shows that, even if we had kept neutral, we, as a people, would still, on balance, have come out the little end of the horn.

The truth is that, even before we formally entered the war, we were practically committed to a course of action which was bound to end disastrously. By 1917 our whole productive mechanism was so geared to supplying Europe's war needs that a neutral America would probably have continued credit-selling on a big scale, because a sudden shutdown on credit would have spelled a first-class business and stock-market panic, with the added risk that our foreign customers would repudiate the debts they had already contracted.

The moment we entered the war, the gravity of our economic situation was effectively cloaked by huge governmental lending and spending; and this

camouflage was continued by our official stabilization loans to Europe during the early post-war period. By 1920, however, we were faced squarely by the same dilemma that had confronted us on the eve of our entry into the war—only this time in a much more acute form. Should we shut down on doubtful foreign credit risks and thereby make certain a terrible business depression, or should we continue to swap goods freely for I O U's?

Again the day of reckoning was sidestepped. We continued to sell on credit, taking the promises to pay in the shape of foreign bonds. Thus, by the expedient of lending foreigners the money to buy our goods, we kept the ball rolling for several years more. Meanwhile, the backwash of all this was undermining our credit structure at home. The upshot was the crash of 1929.

Perhaps the most disastrous feature of the whole war-trade business was the stepping-up of our industry and agriculture to a degree wholly unwarranted by economic realities. We grossly overexpanded, thus bringing on the vicious circle of overproduction and mass unemployment which plagues us today. Because of our foreign gambles, thousands of factories were built which never ought to have been built, and acres by the hundred thousand were tilled which should never have gone under the plow. The results we see today in the gaunt array of closed factories and gullied, wind-blown acres.

Before the war our economic life was sound. How our agriculture became unbalanced is vividly disclosed by what happened to two of our key products—wheat and cotton. In 1918 about 50,000,000 acres were devoted to wheat growing. That acreage produced 763,000,000 bushels at an average price of 80 cents per bushel. By 1919 our wheat acreage had increased to nearly 74,000,000, growing a crop of 952,000,000 bushels at a price of \$2.16. In 1932, at the depth of the depression, our wheat fetched less than 40 cents a bushel, though the yield and acreage were still far above prewar levels. * * * The story of cotton is equally tragic. From 12½ cents a pound in 1913, cotton rocketed to 35½ cents in 1919, while at its low point at the end of 1931 it sank to 5½ cents.

These dizzy shifts typify what happened to our agriculture all along the line.

The tale of our industrial overexpansion is quite similar. Perhaps the best general picture of what the Great War and its aftermath did to our whole economic life is given in the fact that from 1914 to 1934 we exported such a vast quantity of goods that their value exceeded by over \$28,000,000,000 that of the foreign goods we took in during the same time.

Now, understand that excess of goods exported represents wealth. Not money or other tokens of value, but real wealth—things we could have eaten or worn or built houses with or worked up into manufactures if we hadn't shipped them abroad. Granted that we wouldn't have produced all this wealth just then for home consumption, the fact remains that if we hadn't exported it, we would still have the makings in our mines, forests, and fields.

And even that is by no means the whole story. In addition to all that tangible wealth, we exported some \$25,000,000,000 of our capital. \$10,000,000,000 of this was in governmental loans during the war and the postwar period; the balance was in private foreign loans. Thus the combined goods and capital which left America during those 20 years from 1914 to 1934 total well over \$50,000,000,000.

Well, what have we got to show for it? Let's see. * * * Within recent years all our governmental debtors have defaulted except Finland, which owes us only about \$8,000,000—less than one-tenth of 1 percent of the total. Since it is an open secret that none of the others intend to pay us, we may fairly write off most of our war loans as worthless.

Next come foreign investments made by American citizens, mostly in bonds. These have a face value of over \$5,000,000,000, but so many bond issues are in default that their present market value is barely \$4,000,000,000.

In addition, there is American capital invested abroad in branch factories bought or built by American corporations, together with other similar direct investments. Their book value totals nearly \$8,000,000,000, but their actual value in these troubled times is problematical.

The final item in our foreign assets is about \$1,000,000,000 in deposits and short-term funds of American banks abroad. But even this normally liquid item is complicated by the large sums frozen or "blocked" in countries like Germany which have adopted drastic measures to conserve their foreign exchange.

There we have the results from more than \$50,000,000,000 of American wealth and capital exported since the beginning of the Great War. Anyone with pencil, paper, and a little imagination can figure out what these foreign assets

of ours will be worth when the next wars which loom on the horizon shall have come to pass.

Such being the outcome of our last fling at war trade, the consequences of our next prospective venture can be confidently predicted. Next time, belligerent customers will not come to us with heavy bags of gold and portfolios bulging with gilt-edged American securities. Europe today is crippled with debt; Russia is financially in bad shape; Japan's credit is strained almost to the breaking point; and our whole world economy is out of gear.

Six years of unparalleled depression have left American business and finance lean and hungry enough to take pretty long credit chances on the prospect of fat war profits. If American business and banking really want to go in for war trade on a big scale, they will do it somehow—provided no legal obstacles intervene.

Bequiled by the lure of easy money, is it not easy to picture the American public once more falling for the hope of a prosperity based on—paper?

Incidentally, such a popular mood would probably cost us our neutrality. But the point here is that, even though we did succeed in staying neutral, a big war trade done on credit would inevitably leave America "in the red". The American people, as a whole, would certainly come out the losers. Once more we would have parted with our real wealth in return for a lot of bad debts. Once more our industry and our agriculture would be abnormally stepped up. Once more the familiar cycle of boom, crash, and depression would be upon us.

The chief hope of averting all this lies in the enactment of a comprehensive neutrality law with good, sharp teeth in it, aiming not only to keep us out of the war, but also to keep our economic life in balance during the war period.

The urgent need for such regulations is clear. All we have on the statute books today is the Johnson Act and the Neutrality Act passed by Congress late last summer. The Johnson Act does not deal directly with neutrality. It merely closes our money markets to loans sought by any foreign Government which is in arrears on debts owed the Government of the United States. This means that neither in wartime nor in peacetime can any of the great powers except Japan borrow money here.

As for the recent Neutrality Act, it sounds well but doesn't go very far. Rushed through Congress in the closing days of a hectic session, it is admittedly stopgap legislation, for its life ends on March 1, 1936—only a few weeks hence. The act provides that it shall be unlawful to export arms, ammunition, or implements of war from any part of the United States to any belligerent or to any neutral port for the use of a belligerent. It was under the terms of this law that the President issued his proclamation of October 5 last, forbidding such exports to both Italy and Ethiopia.

The Neutrality Act is a step in the right direction. Yet it is only a patch on what should be enacted. The scope of the needed legislation can be summarized as follows:

1. The present embargo on the export of arms and munitions to all belligerents should be confirmed and made permanent. This will avoid many complications which might endanger our neutrality.

2. All goods not embargoed should be sold to belligerents only for spot cash or on short-term commercial credits. This, in practice, means selling f. o. b. some American port, whence the goods should be shipped in foreign vessels entirely at buyer's risk. In short, all our war trade should be put and kept on a strictly cash-and-carry basis. It probably would be wise to insist that title should pass to the buyer before the goods left American soil.

3. The forbidding of long-term credits should naturally go hand in hand with equally stringent regulations forbidding the flotation upon our money markets of foreign bonds or other securities, public and private, originating with belligerents.

4. The President's warning to his fellow citizens that if they sail on belligerent ships they do so at their own risk is the very least that should be done in this respect. In case of a naval war our Government might well order its citizens to sail only under the Stars and Stripes.

5. Besides the specific points just discussed (most of which should be mandatory), our neutrality code should give the President discretionary power over all phases of our foreign trade and financing not directly dealt with by the law itself. This would be necessary to prevent evasion by other neutrals acting secretly as agents for belligerent interests.

The proposals just sketched are, of course, merely a rough draft of a legislative program which should be worked out with great care. It is one of the

most important tasks before the new session of Congress. A well-rounded neutrality code can keep us out of war and keep our economic balance at one and the same time. It can safeguard both our peace and our hope of real prosperity.

STATEMENT OF HON U. GRANT-SMITH

The CHAIRMAN. Please state your name and business.

Mr. SMITH. U. Grant-Smith. I am a retired diplomat, so that that is no business.

Mr. BLOOM. I was going to ask you what does that mean.

The CHAIRMAN. We will see how much of a diplomat you are this morning.

Mr. GRANT-SMITH. Do you want to know anything about my career?

The CHAIRMAN. Just briefly.

Mr. GRANT-SMITH. I went into the Service in 1903 and served in nine different capitals. My last post was Minister of Uruguay, and I retired in 1930.

The CHAIRMAN. I knew that, but I just wanted it for the record.

Mr. GRANT-SMITH. That is the reason I was invited here by Mr. Fish, because he knew that I had some rather strange ideas on the subject of the way that we get into war, at least, one of what we consider one of the great nations that brought us into the war. You are on the subject of neutrality, of course, but that is a very important question to my mind, as to how you can get into war. Of course, there are various ways of approaching this question. You have, on the one hand, what you might term the attorney's way, wherein you decided on the conclusion and arrange the premises to suit that conclusion. On the other hand, you have what we have here, what I should call the diplomats' way of looking at things; that is, the diplomats' approach, or, rather, which means to first discover all possible premises and then let the conclusion come of itself. So, I am invited to speak to you gentlemen of this committee, whom I know are in the habit of using that particular method which I shall call otherwise the laboratory method.

The statement has frequently been made that Germany forced the United States into the Great War. A certain important aspect of Germany's responsibility has not yet been touched upon, however.

As a preliminary to this somewhat unorthodox point of view certain facts of German, and especially of Prussian, history may well be recalled.

Mr. FISH. Weren't you in the American Embassy in Vienna for 2 or 3 years during the war?

Mr. GRANT-SMITH. Yes; I was counselor of the American Embassy in Vienna until January 1917. I went there in December 1912, and was there until January 1917.

Mr. JOHNSON. At Vienna?

Mr. GRANT-SMITH. Yes.

In the year 1864 Prussia provoked a war with Denmark. It was of short duration. Prussia was victorious and Denmark paid with territory.

In the year 1866 Prussia provoked a war with Austria, known as the "Seven Weeks War." Prussia was again victorious and Austria and her allies paid with territory or with indemnities.

In the year 1870 war broke out between France and Prussia, who was supported by the other German states. This war also was of short duration and France paid with territory and with an indemnity.

It will be recalled that at the time, and for some years subsequently, the conviction was world-wide that the Franco-Prussian war of 1870 had been provoked by France. Gradually it began to dawn on students, and it is now definitely known, that in pursuance of his policy of expansion Prince Bismarck had deliberately provoked the French into striking the first blow. The famous phrase which appears in his memoirs, "It was important that Prussia be the one attacked" to insure Prussia's leadership of the German States, is a proud admission of the fact.

Here we have Bismarck's three victorious, short wars, after each of which the enemy paid the cost.

That was the type of war which the German High Command hoped to realize in 1914, a soldier's dream, as a matter of fact. When, however, it became evident in the early days of 1915 that the war would be long protracted, when they realized the enormous daily cost not only to themselves, but to the Allies, they saw that in the event of a German victory it would be impossible to extract adequate indemnities from their enemies. Ever mindful of the three successful predatory wars of Bismarck, what was more natural for the inner circle of the High Command than to attempt to devise means of draining the coffers of the richest nation in the world, none other than those of the United States of America?

Revising their plan, therefore, to meet the new conditions, they decided that while the military should endeavor to force a favorable decision, the Navy should set about the construction of as many submarines as possible, being convinced that with a given number the Eastern Hemisphere could be isolated from the Western and thereby starve out England and France, in the meantime periodically to irritate the people of the United States by repeated attacks on American vessels and citizens. The Foreign Office was given the task of playing fast and loose with the American Government, causing sabotage in the United States and fomenting trouble in Mexico.

When the requisite number of submarines had been launched and manned, America, a spineless conglomeration composed, as they proclaimed, of the offscourings of Europe, of no military consequence, was finally to be forced into the war on the side of Germany's enemies (her worth as an ally would be valueless as far as indemnities were concerned); a few thousand American troops were to be permitted to land in Europe, whereupon the Eastern Hemisphere was to be cut off from the Western, England and France starved into surrender, peace imposed, and the American troops on European soil held as hostages for indemnities. That sounds very strange, I know.

How close this came to realization is shown by the rate at which Allied ships were being sunk in June 1917, when Lloyd George was the only one who is reported to have denied the possibility of an early defeat of the Allies, and Germany undoubtedly would have won had she succeeded in building only a few more submarines by

that fatal spring. It was the use of the depth bomb and the convoy system which saved us at that juncture.

When the Balfour Mission came to Washington in the spring of 1916, General Bridges, the chief military member of the mission, a former colleague of mine at Brussels, stated to me that at the rate things were then going France would be obliged to capitulate in October and that Britain might be able to hold on only for another year unless American troops arrived in Europe in large numbers without delay. In the following June conditions were even more serious.

Under date of January 8, 1916, and please note that date, I sent a memorandum from Vienna, with the permission of my chief, to the Department of State in which I said,

In short, the idea would be to make the Atlantic so swarm with submarines that both owners and crews would be unwilling to assume the risks of crossing. Should the launching of this grandiose scheme be actually in contemplation, it seems probable that the questions now under discussion will be nursed along until the Teutonic preparations have reached a stage considered adequate, when the swarm will be projected into the Atlantic and an attempt made to strangle simultaneously the Old World and the new.

That was just a year before it happened.

This aspect is not a new one. Both mention and proof of it are to be found in the memoirs of German and Austrian soldiers and statesmen, in despatches and memoranda in the Department of State, in the notes exchanged between President Wilson and the German Government, and in an article written by myself, published in the Washington Post in the spring of 1917.

It was not, however, flattering to our national vanity to admit that we could have been irritated into striking the first blow. It was more pleasant to persuade ourselves that we were acting entirely of our own volition, from high motives and in defense of vital principles—not because a bully had said "I dare you to hit me." The French thought the same in 1870. They know better now. And now, in later years, is it more gratifying to our national pride to attribute our entrance into the war to ignoble aims rather than admit that we were duped by enemy propaganda and that enemy acts, deliberately provocative, roused our righteous indignation?

These conclusions were deduced from premises learned during an almost continuous residence in Vienna from 1914 to 1917—and, I do not mention what came before that because it was not during the war—during which period I made two visits to Berlin. My sources were persons who were in a position to know.

Mr. EATON. I am very sorry Mr. Tinkham was not here to hear your statement.

The CHAIRMAN. That is most interesting. I too am very sorry, as Dr. Eaton says, that Mr. Tinkham was not in here. I want to thank you on behalf of the committee for your statement.

We will adjourn subject to the Chair.

(Whereupon, at 12:15 p. m., the committee adjourned, subject to the call of the chairman.)

APPENDIX

STATEMENT OF JOSEPH C. GREEN, CHIEF, OFFICE OF ARMS AND MUNITIONS CONTROL, DEPARTMENT OF STATE, EXECUTIVE SECRETARY OF THE NATIONAL MUNITIONS CONTROL BOARD

Mr. Chairman, in compliance with the request of the committee, I submit the following brief statement in regard to the administration of the joint resolution of Congress of August 31, 1935 (annex I) :

Action taken under section 1.—Hostilities broke out between Italy and Ethiopia on October 3. On October 5 the President issued a proclamation (annex II) pursuant to section 1 placing an embargo on the exportation of arms, ammunition, and implements of war to Ethiopia and Italy.

The Secretary of the Treasury, at the request of the Secretary of State, distributed copies of the proclamation, together with appropriate instructions, to all collectors of customs.

When section 2 of the joint resolution became effective on November 29, the Secretary of State put into effect the following regulation :

"No export licenses will be issued for shipments destined to Ethiopia or Italy or any Italian possession of any of the arms, ammunition, or implements of war enumerated in the President's proclamation of October 5, 1935.

"By virtue of the power delegated to the Secretary of State to prescribe regulations for the enforcement of section 1 of the joint resolution of August 31, 1935, and of the President's proclamation issued thereunder, the Secretary of State may require exporters of any of the arms, ammunition, or implements of war enumerated in the President's proclamation to present convincing evidence that they are not destined to Ethiopia, Italy, or Italian possessions and may refuse to issue an export license for the same until such convincing evidence has been presented to him."

No evidence has come to light of any attempt on the part of any person to violate the provisions of the President's proclamation.

Action taken under section 2.—The National Munitions Control Board met under the chairmanship of the Secretary of State on September 24, 1935. The Board appointed an executive secretary, approved an enumeration of articles which it recommended to the President as arms, ammunition, and implements of war for the purposes of this section, and prescribed the special permanent records to be kept by manufacturers, importers, and exporters of arms.

The President on September 25, 1935, issued a proclamation pursuant to section 2 (annex III). The Secretary of State compiled for the information of collectors of customs, manufacturers, importers, and exporters of arms and other interested persons, the laws and regulations administered by the Secretary of State governing the international traffic in arms, ammunition, and implements of war. This compilation was issued by the Department of State in pamphlet form on October 5 (revised second edition of this pamphlet annex IV). The pamphlet contains the text of section 2 of the joint resolution of August 31, 1935, the text of the President's proclamation of September 25, 1935, the general regulations promulgated by the Secretary of State in pursuance of section 2, the regulation of the National Munitions Control Board in regard to the keeping of permanent records, and special provisions relating to the laws of the United States and the treaties to which the United States is a party referred to in the text of section 2.

The Secretary of State began the registration of manufacturers, importers, and exporters of arms on October 21, 1935. One hundred and sixteen persons and companies have registered since that date. Three statements issued to the press by the Department of State in regard to registration are attached hereto (annexes V, VI, and VII). It will be noted that some manufacturers,

importers, and exporters of arms, ammunition and implements of war presumably required to register under the provisions of section 2 have not as yet done so, and that their failure to do so is now being investigated by the Department of Justice.

The issuance of export licenses, pursuant to section 2, was begun on October 10, 1935. There are attached hereto two statements issued to the press by the Department of State in regard to export licenses issued (annexes VIII and IX). It will be noted that 394 export licenses were issued between October 10 and December 31. (This figure does not take into account the 62 export licenses for the exportation of arms, ammunition, and implements of war to Cuba, issued pursuant to the special provisions of law set forth in section VII of the pamphlet, *Laws and Regulations Administered by the Secretary of State Governing the International Traffic in Arms, Ammunition, and Implements of War.*)

Action taken under section 3.—This section automatically became effective upon the issuance of the President's proclamation of October 5, issued pursuant to section 1.

Action taken under section 4.—No action has been taken pursuant to this section.

Action taken under section 5.—No action has been taken pursuant to this section.

Action taken under section 6.—On October 5 the President issued a proclamation pursuant to section 6 (annex X).

Action taken under section 7.—No persons have been prosecuted for violation of the provisions of the joint resolution.

Action taken defining the policy of the Government of the United States as expressed in the joint resolution of August 31, 1935.—On October 5 the President issued a statement (annex XI) that " * * any of our people who voluntarily engage in transactions of any character with either of the belligerents do so at their own risk."

On October 10 the Secretary of State issued a further statement in regard to commercial transactions with the belligerents (annex XII).

On October 26 the Secretary of State made public his reply to a communication from Dr. Augusto de Vasconcellos, president of the committee of coordination of the League of Nations, in which he set forth the policy of the Government of the United States (annex XIII).

On October 30 the President and the Secretary of State issued further statements in regard to commercial transactions with the belligerents (annexes XIV and XV).

On November 6 the Secretary of State made a public address in regard to the neutrality policy of the United States (annex XVI).

On November 15 the Secretary of State issued a further statement in regard to commercial relations with the belligerents (annex XVII).

I

[PUBLIC RESOLUTION—No. 67—74TH CONGRESS]

[S. J. Res. 173]

JOINT RESOLUTION Providing for the prohibition of the export of arms, ammunition, and implements of war to belligerent countries; the prohibition of the transportation of arms, ammunition, and implements of war by vessels of the United States for the use of belligerent states; for the registration and licensing of persons engaged in the business of manufacturing, exporting, or importing arms, ammunition, or implements of war; and restricting travel by American citizens on belligerent ships during war

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That upon the outbreak or during the progress of war between, or among, two or more foreign states, the President shall proclaim such fact, and it shall thereafter be unlawful to export arms, ammunition, or implements of war from any place in the United States, or possessions of the United States, to any port of such belligerent states, or to any neutral port for transshipment to, or for the use of, a belligerent country.

The President, by proclamation, shall definitely enumerate the arms, ammunition, or implements of war, the export of which is prohibited by this Act.

The President may, from time to time, by proclamation, extend such embargo

upon the export of arms, ammunition, or implements of war to other states as and when they may become involved in such war.

Whoever, in violation of any of the provisions of this section, shall export, or attempt to export, or cause to be exported, arms, ammunition, or implements of war from the United States, or any of its possessions, shall be fined not more than \$10,000 or imprisoned not more than five years, or both, and the property, vessel, or vehicle containing the same shall be subject to the provisions of sections 1 to 8, inclusive, title 6, chapter 30, of the Act approved June 15, 1917 (40 Stat. 223-225; U. S. C., title 22, secs. 238-245).

In the case of the forfeiture of any arms, ammunition, or implements of war by reason of a violation of this Act, no public or private sale shall be required; but such arms, ammunition, or implements of war shall be delivered to the Secretary of War for such use or disposal thereof as shall be approved by the President of the United States.

When in the judgment of the President the conditions which have caused him to issue his proclamation have ceased to exist he shall revoke the same and the provisions hereof shall thereupon cease to apply.

Except with respect to prosecutions committed or forfeitures incurred prior to March 1, 1936, this section and all proclamations issued thereunder shall not be effective after February 29, 1936.

SEC. 2. That for the purposes of this Act—

(a) The term "Board" means the National Munitions Control Board which is hereby established to carry out the provisions of this Act. The Board shall consist of the Secretary of State, who shall be chairman and executive officer of the Board; the Secretary of the Treasury; the Secretary of War; the Secretary of the Navy; and the Secretary of Commerce. Except as otherwise provided in this Act, or by other law, the administration of this Act is vested in the Department of State;

(b) The term "United States" when used in a geographical sense, includes the several States and Territories, the insular possessions of the United States (including the Philippine Islands), the Canal Zone, and the District of Columbia;

(c) The term "person" includes a partnership, company, association, or corporation, as well as a natural person.

Within ninety days after the effective date of this Act, or upon first engaging in business, every person who engages in the business of manufacturing, exporting, or importing any of the arms, ammunition, and implements of war referred to in this Act, whether as an exporter, importer, manufacturer, or dealer, shall register with the Secretary of State his name, or business name, principal place of business, and places of business in the United States, and a list of the arms, ammunition, and implements of war which he manufactures, imports, or exports.

Every person required to register under this section shall notify the Secretary of State of any change in the arms, ammunition, and implements of war which he exports, imports, or manufactures; and upon such notification the Secretary of State shall issue to such person an amended certificate of registration, free of charge, which shall remain valid until the date of expiration of the original certificate. Every person required to register under the provisions of this section shall pay a registration fee of \$500, and upon receipt of such fee the Secretary of State shall issue a registration certificate valid for five years, which shall be renewable for further periods of five years upon the payment of each renewal of a fee of \$500.

It shall be unlawful for any person to export, or attempt to export, from the United States any of the arms, ammunition, or implements of war referred to in this Act to any other country or to import, or attempt to import, to the United States from any other country any of the arms, ammunition, or implements of war referred to in this Act without first having obtained a license therefor.

All persons required to register under this section shall maintain, subject to the inspection of the Board, such permanent records of manufacture for export, importation, and exportation of arms, ammunition, and implements of war as the Board shall prescribe.

Licenses shall be issued to persons who have registered as provided for, except in cases of export or import licenses where exportation of arms, ammunition, or implements of war would be in violation of this Act or any other law of the United States, or of a treaty to which the United States is a party, in which cases such licenses shall not be issued.

The Board shall be called by the Chairman and shall hold at least one meeting a year.

No purchase of arms, ammunition, and implements of war shall be made on behalf of the United States by any officer, executive department, or independent establishment of the Government from any person who shall have failed to register under the provisions of this Act.

The Board shall make an annual report to Congress, copies of which shall be distributed as are other reports transmitted to Congress. Such report shall contain such information and data collected by the Board as may be considered of value in the determination of questions connected with the control of trade in arms, ammunition, and implements of war. It shall include a list of all persons required to register under the provisions of this Act, and full information concerning the licenses issued hereunder.

The Secretary of State shall promulgate such rules and regulations with regard to the enforcement of this section as he may deem necessary to carry out its provisions.

The President is hereby authorized to proclaim upon recommendation of the Board from time to time a list of articles which shall be considered arms, ammunition, and implements of war for the purposes of this section.

This section shall take effect on the ninetieth day after the date of its enactment.

SEC. 3. Whenever the President shall issue the proclamation provided for in section 1 of this Act, thereafter it shall be unlawful for any American vessel to carry any arms, ammunition, or implements of war to any port of the belligerent countries named in such proclamation as being at war, or to any neutral port for transshipment to, or for the use of, a belligerent country.

Whoever, in violation of the provisions of this section, shall take, attempt to take, or shall authorize, hire, or solicit another to take any such vessel carrying such cargo out of port or from the jurisdiction of the United States shall be fined not more than \$10,000 or imprisoned not more than 5 years, or both; and, in addition, such vessel, her tackle, apparel, furniture, equipment, and the arms, ammunition, and implements of war on board shall be forfeited to the United States.

When the President finds the conditions which have caused him to issue his proclamation have ceased to exist, he shall revoke his proclamation, and the provisions of this section shall thereupon cease to apply.

SEC. 4. Whenever, during any war in which the United States is neutral, the President, or any person thereunto authorized by him, shall have cause to believe that any vessel, domestic or foreign, whether requiring clearance or not, is about to carry out of a port of the United States, or its possession, men or fuel, arms, ammunition, implements of war, or other supplies to any warship, tender, or supply ship of a foreign belligerent nation, but the evidence is not deemed sufficient to justify forbidding the departure of the vessel as provided for by section 1, title V, chapter 30, of the Act approved June 15, 1917 (40 Stat. ¹; U. S. C., title 18, sec. 31), and if, in the President's judgment, such action will serve to maintain peace between the United States and foreign nations, or to protect the commercial interests of the United States and its citizens, or to promote the security of the United States, he shall have the power and it shall be his duty to require the owner, master, or person in command thereof, before departing from a port of the United States, or any of its possessions, for a foreign port, to give a bond to the United States, with sufficient sureties, in such amount as he shall deem proper, conditioned that the vessel will not deliver the men, or the cargo, or any part thereof, to any warship, tender, or supply ship of a belligerent nation; and, if the President, or any person thereunto authorized by him, shall find that a vessel, domestic or foreign, in a port of the United States, or one of its possessions has previously cleared from such port during such war and delivered its cargo or any part thereof to a warship, tender, or supply ship of a belligerent nation, he may prohibit the departure of such vessel during the duration of the war.

SEC. 5. Whenever, during any war in which the United States is neutral, the President shall find that special restrictions placed on the use of the ports and territorial waters of the United States, or of its possessions, by the submarines of a foreign nation will serve to maintain peace between the United States and foreign nations, or to protect the commercial interests of the United States and its citizens, or to promote the security of the United States, and shall make

¹ So in original.

proclamation thereof, it shall thereafter be unlawful for any such submarine to enter a port or the territorial waters of the United States or any of its possessions, or to depart therefrom, except under such conditions and subject to such limitations as the President may prescribe. When, in his judgment, the conditions which have caused him to issue his proclamation have ceased to exist, he shall revoke his proclamation, and the provisions of this section shall thereupon cease to apply.

SEC. 6. Whenever, during any war in which the United States is neutral, the President shall find that the maintenance of peace between the United States and foreign nations, or the protection of the lives of citizens of the United States, or the protection of the commercial interests of the United States and its citizens, or the security of the United States requires that the American citizens should refrain from traveling as passengers on the vessels of any belligerent nation, he shall so proclaim, and thereafter no citizen of the United States shall travel on any vessel of any belligerent nation except at his own risk, unless in accordance with such rules and regulations as the President shall prescribe: *Provided, however,* That the provisions of this section shall not apply to a citizen traveling on the vessel of a belligerent whose voyage was begun in advance of the date of the President's proclamation, and who had no opportunity to discontinue his voyage after that date: *And provided further,* That they shall not apply under ninety days after the date of the President's proclamation to a citizen returning from a foreign country to the United States or to any of its possessions. When, in the President's judgment, the conditions which have caused him to issue his proclamation have ceased to exist, he shall revoke his proclamation, and the provisions of this section shall thereupon cease to apply.

SEC. 7. In every case of the violation of any of the provisions of this Act where a specific penalty is not herein provided, such violator or violators, upon conviction, shall be fined not more than \$10,000 or imprisoned not more than five years, or both.

SEC. 8. If any of the provisions of this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of the Act, and the application of such provision to other persons or circumstances, shall not be affected thereby.

SEC. 9. The sum of \$25,000 is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, to be expended by the Secretary of State in administering this Act.

Approved, August 31, 1935.

II

EXPORT OF ARMS, AMMUNITION, AND IMPLEMENTS OF WAR TO ETHIOPIA AND ITALY

A PROCLAMATION BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

WHEREAS section 1 of a joint resolution of Congress, entitled "JOINT RESOLUTION Providing for the prohibition of the export of arms, ammunition, and implements of war to belligerent countries; the prohibition of the transportation of arms, ammunition, and implements of war by vessels of the United States for the use of belligerent states; for the registration and licensing of persons engaged in the business of manufacturing, exporting, or importing arms, ammunition, or implements of war; and restricting travel by American citizens on belligerent ships during war", approved August 31, 1935, provides in part as follows:

"That upon the outbreak or during the progress of war between, or among, two or more foreign states, the President shall proclaim such fact, and it shall thereafter be unlawful to export arms, ammunition, or implements of war from any place in the United States, or possessions of the United States, to any port of such belligerent states, or to any neutral port for transshipment to, or for the use of, a belligerent country."

AND WHEREAS it is further provided by section 1 of the said joint resolution that—

"The President, by proclamation, shall definitely enumerate the arms, ammunition, or implements of war, the export of which is prohibited by this Act."

AND WHEREAS it is further provided by section 1 of the said joint resolution that—

"Whoever, in violation of any of the provisions of this section, shall export, or attempt to export, or cause to be exported, arms, ammunition, or implements of war from the United States, or any of its possessions, shall be fined not more than \$10,000 or imprisoned not more than five years, or both, and the property, vessel, or vehicle containing the same shall be subject to the provisions of sections 1 to 8, inclusive, title 6, chapter 30, of the Act approved June 15, 1917 (40 Stat. 223-225; U. S. C., title 22, secs. 238-245)."

NOW, THEREFORE, I, FRANKLIN D. ROOSEVELT, President of the United States of America, acting under and by virtue of the authority conferred on me by the said joint resolution of Congress, do hereby proclaim that a state of war unhappily exists between Ethiopia and the Kingdom of Italy; and I do hereby admonish all citizens of the United States or any of its possessions and all persons residing or being within the territory or jurisdiction of the United States or its possessions to abstain from every violation of the provisions of the joint resolution above set forth, hereby made effective and applicable to the export of arms, ammunition, or implements of war from any place in the United States or its possessions to Ethiopia or to the Kingdom of Italy, or to any Italian possession, or to any neutral port for transshipment to, or for the use of, Ethiopia or the Kingdom of Italy.

And I do hereby declare and proclaim that the articles listed below shall be considered arms, ammunition, and implements of war for the purposes of section 1 of said joint resolution of Congress:

Category I

(1) Rifles and carbines using ammunition in excess of cal. 26.5, and their barrels;

(2) Machine guns, automatic rifles, and machine pistols of all calibers, and their barrels;

(3) Guns, howitzers, and mortars of all calibers, their mountings and barrels;

(4) Ammunition for the arms enumerated under (1) and (2) above, i. e., high-power steel-jacketed ammunition in excess of cal. 26.5; filled and unfilled projectiles and propellants with a web thickness of .015 inches or greater for the projectiles of the arms enumerated under (3) above;

(5) Grenades, bombs, torpedoes, and mines, filled or unfilled, and apparatus for their use or discharge;

(6) Tanks, military armored vehicles, and armored trains.

Category II

Vessels of war of all kinds, including aircraft carriers and submarines.

Category III

(1) Aircraft, assembled or dismantled, both heavier and lighter than air, which are designed, adapted, and intended for aerial combat by the use of machine guns or of artillery or for the carrying and dropping of bombs or which are equipped with, or which by reason of design or construction are prepared for, any of the appliances referred to in paragraph (2) below;

(2) Aerial gun mounts and frames, bomb racks, torpedo carriers, and bomb or torpedo release mechanisms.

Category IV

Revolvers and automatic pistols of a weight in excess of 1 pound 6 ounces (680 grams), using ammunition in excess of cal. 26.5, and ammunition therefor.

Category V

(1) Aircraft, assembled or dismantled, both heavier and lighter than air, other than those included in category III;

(2) Propellers or air screws, fuselage, hulls, tail unit, and under carriage units;

(3) Aircraft engines.

Category VI

(1) Livens projectors and flame throwers;

(2) Mustard gas, lewisite, ethyldichlorarsine, and methyldichlorarsine.

And I do hereby enjoin upon all officers of the United States, charged with the execution of the laws thereof, the utmost diligence in preventing violations of the said joint resolution, and this my proclamation issued thereunder, and in bringing to trial and punishment any offenders against the same.

And I do hereby delegate to the Secretary of State the power of prescribing regulations for the enforcement of section 1 of the said joint resolution of August 31, 1935, as made effective by this my proclamation issued thereunder.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States to be affixed.

DONE at the City of Washington this 5th day of October, in the year of our Lord nineteen hundred and thirty-five, and of the Independence of the United States of America the one hundred and sixtieth.

[SEAL]

FRANKLIN D. ROOSEVELT

By the President:

CORDELL HULL

Secretary of State.

[No. 2141]

III

A PROCLAMATION BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

WHEREAS section 2 of a joint resolution of Congress, entitled "JOINT RESOLUTION Providing for the prohibition of the export of arms, ammunition, and implements of war to belligerent countries; the prohibition of the transportation of arms, ammunition, and implements of war by vessels of the United States for the use of belligerent states; for the registration and licensing of persons engaged in the business of manufacturing, exporting, or importing arms, ammunition, or implements of war; and restricting travel by American citizens on belligerent ships during war", approved August 31, 1935, provides in part as follows:

"The President is hereby authorized to proclaim upon recommendation of the Board from time to time a list of articles which shall be considered arms, ammunition, and implements of war for the purposes of this section",

NOW, THEREFORE, I, FRANKLIN D. ROOSEVELT, President of the United States of America, acting under and by virtue of the authority conferred upon me by the said joint resolution of Congress, and pursuant to the recommendation of the National Munitions Control Board, declare and proclaim that the articles listed below shall be considered arms, ammunition, and implements of war for the purposes of section 2 of the said joint resolution of Congress:

Category I

(1) Rifles and carbines using ammunition in excess of cal. 26.5, and their barrels;

(2) Machine guns, automatic rifles, and machine pistols of all calibers, and their barrels;

(3) Guns, howitzers, and mortars of all calibers, their mountings and barrels;

(4) Ammunition for the arms enumerated under (1) and (2) above, i. e., high-power steel-jacketed ammunition in excess of cal. 26.5; filled and unfilled projectiles and propellants with a web thickness of 0.015 inch or greater for the projectiles of the arms enumerated under (3), above;

(5) Grenades, bombs, torpedoes, and mines, filled or unfilled, and apparatus for their use or discharge;

(6) Tanks, military armored vehicles, and armored trains.

Category II

Vessels of war of all kinds, including aircraft carriers and submarines.

Category III

(1) Aircraft, assembled or dismantled, both heavier and lighter than air, which are designed, adapted, and intended for aerial combat by the use of machine guns or of artillery or for the carrying and dropping of bombs, or which are equipped with, or which by reason of design or construction are prepared for, any of the appliances referred to in paragraph (2), below.

(2) Aerial gun mounts and frames, bomb racks, torpedo carriers, and bomb or torpedo release mechanisms.

Category IV

Revolvers and automatic pistols of a weight in excess of 1 pound 6 ounces (630 grams), using ammunition in excess of cal. 26.5, and ammunition therefor.

Category V

(1) Aircraft assembled or dismantled, both heavier and lighter than air, other than those included in category III.

(2) Propellers or air screws, fuselages, hulls, tail units, and under carriage units.

(3) Aircraft engines.

Category VI

(1) Livens projectors and flame throwers.

(2) Mustard gas, lewisite, ethyldichlorarsine, and Methyldichlorarsine.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States to be affixed.

DONE at the City of Washington this 25th day of September,
[SEAL] in the year of our Lord nineteen hundred and thirty-five, and of the Independence of the United States of America the one hundred and sixtieth.

FRANKLIN D. ROOSEVELT

By the President:

CORDELL HULL

Secretary of State.

IV
THE DEPARTMENT OF STATE
—
INTERNATIONAL TRAFFIC IN ARMS
—
LAWS AND REGULATIONS
ADMINISTERED BY THE SECRETARY OF STATE
GOVERNING THE INTERNATIONAL TRAFFIC
IN ARMS, AMMUNITION, AND
IMPLEMENTS OF WAR
—

SECOND EDITION



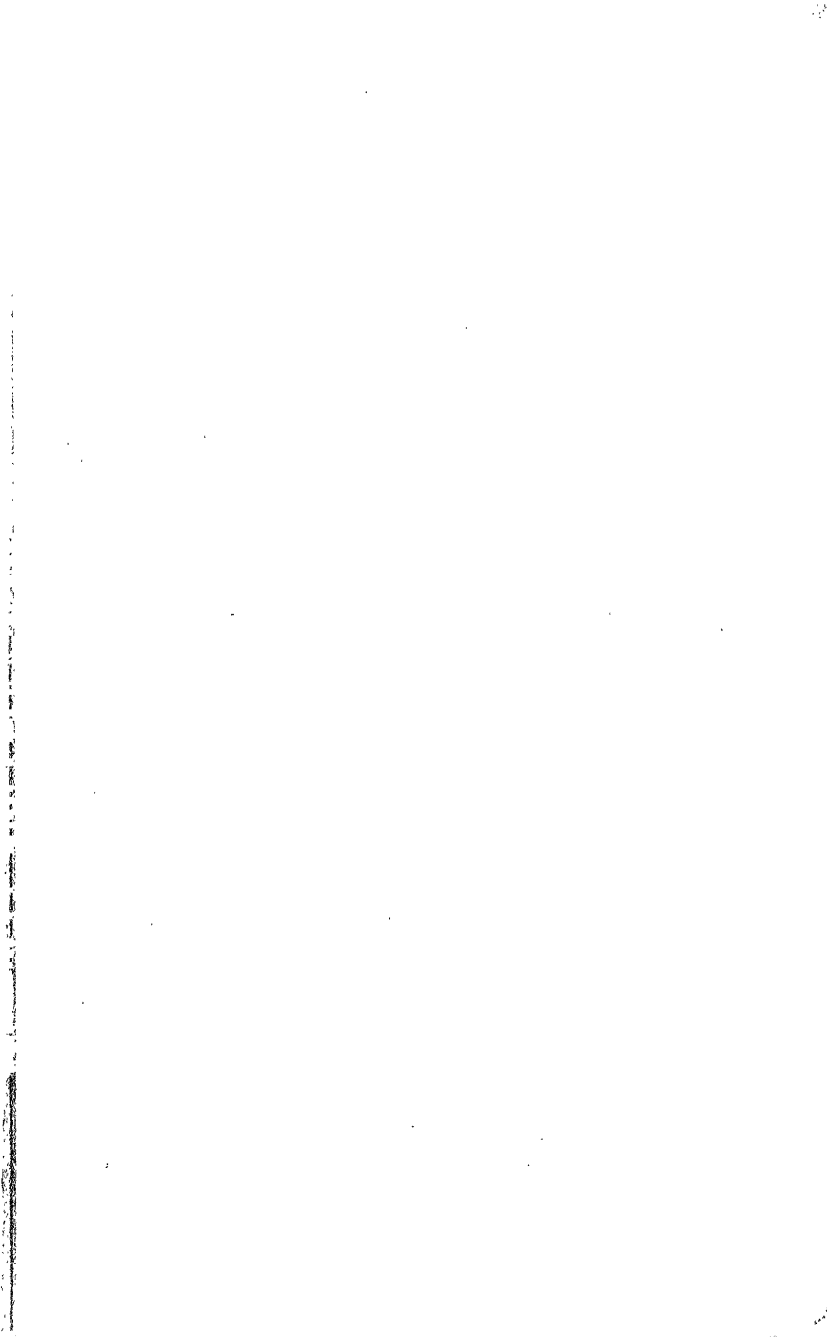
INTRODUCTORY STATEMENT

The Secretary of State announces that the regulations contained herein supersede, as of this date, all previous regulations in respect to the exportation of arms to Bolivia, China, Cuba, Honduras, Nicaragua, and Paraguay, as prescribed pursuant to the joint resolution of Congress approved January 31, 1922, and the Presidential proclamations issued thereunder, and to the joint resolution of Congress approved May 28, 1934, and the Presidential proclamation issued thereunder. Applications for export licenses for shipments to these countries should therefore be submitted in accordance with these regulations.

In respect to the importation of arms, these regulations do not become effective, under the joint resolution of Congress approved August 31, 1935, until November 29, 1935. Applications for import licenses will, however, be received and acted upon by the Secretary of State before this date in order to obviate delay and inconvenience to the importer.

In respect to the exportation of arms to countries other than Bolivia, China, Cuba, Honduras, Nicaragua, and Paraguay, these regulations do not become effective, under the joint resolution of Congress approved August 31, 1935, until November 29, 1935. Applications for export licenses will, however, be received and acted upon by the Secretary of State before this date in order to obviate delay and inconvenience to the exporter.

October 10, 1935.



INTERNATIONAL TRAFFIC IN ARMS

LAWS AND REGULATIONS ADMINISTERED BY THE SECRETARY OF STATE GOVERNING THE INTERNATIONAL TRAFFIC IN ARMS, AMMUNITION, AND IMPLEMENTS OF WAR

Section I

SECTION 2 OF THE JOINT RESOLUTION APPROVED BY THE PRESIDENT AUGUST 31, 1935

Section 2 of the joint resolution approved by the President on August 31, 1935, reads as follows:

"That for the purposes of this Act—

"(a) The term 'Board' means the National Munitions Control Board which is hereby established to carry out the provisions of this Act. The Board shall consist of the Secretary of State, who shall be chairman and executive officer of the Board; the Secretary of the Treasury; the Secretary of War; the Secretary of the Navy; and the Secretary of Commerce. Except as otherwise provided in this Act, or by other law, the administration of this Act is vested in the Department of State;

"(b) The term 'United States' when used in a geographical sense, includes the several States and Territories, the insular possessions of the United States (including the Philippine Islands), the Canal Zone, and the District of Columbia;

"(c) The term 'person' includes a partnership, company, association, or corporation, as well as a natural person.

"Within ninety days after the effective date of this Act, or upon first engaging in business, every person who engages in the business of manufacturing, exporting, or importing any of the arms, ammunition, and implements of war referred to in this Act, whether as an exporter, importer, manufacturer, or dealer, shall register with the Secretary of State his name, or business name, principal place of business, and places of business in the United States, and a list of the arms, ammunition, and implements of war which he manufactures, imports, or exports.

"Every person required to register under this section shall notify the Secretary of State of any change in the arms, ammunition, and implements of war which he exports, imports, or manufactures; and upon such notification the Secretary of State shall issue to such person an amended certificate of registration, free of charge, which shall remain valid until the date of expiration of the original certificate. Every person required to register under the provisions of this section shall pay a registration fee of \$500, and upon receipt of such fee the Secretary of State shall issue a registration certificate valid for five years, which shall be renewable for further periods of five years upon the payment of each renewal of a fee of \$500.

"It shall be unlawful for any person to export, or attempt to export, from the United States any of the arms, ammunition, or implements of war referred to in this Act to any other country or to import, or attempt to import, to the United States from any other country any of the arms, ammunition, or implements of war referred to in this Act without first having obtained a license therefor.

"All persons required to register under this section shall maintain, subject to the inspection of the Board, such permanent records of manufacture for export, importation, and exportation of arms, ammunition, and implements of war as the Board shall prescribe.

"Licenses shall be issued to persons who have registered as provided for, except in cases of export or import licenses where exportation of arms, ammunition, or implements of war would be in violation of this Act or any other law of the United States, or of a treaty to which the United States is a party, in which cases such licenses shall not be issued.

"The Board shall be called by the Chairman and shall hold at least one meeting a year.

"No purchase of arms, ammunition, and implements of war shall be made on behalf of the United States by any officer, executive department, or independent establishment of the Government from any person who shall have failed to register under the provisions of this Act.

"The Board shall make an annual report to Congress, copies of which shall be distributed as are other reports transmitted to Congress. Such report shall contain such information and data collected by the Board as may be considered of value in the determination of questions connected with the control of trade in arms, ammunition, and implements of war. It shall include a list of all persons required to register under the provisions of this Act, and full information concerning the licenses issued hereunder.

"The Secretary of State shall promulgate such rules and regulations with regard to the enforcement of this section as he may deem necessary to carry out its provisions.

"The President is hereby authorized to proclaim upon recommendation of the Board from time to time a list of articles which shall be considered arms, ammunition, and implements of war for the purposes of this section.

"This section shall take effect on the ninetieth day after the date of its enactment."

Section 7 of the same joint resolution reads as follows:

"In every case of the violation of any of the provisions of this Act where a specific penalty is not herein provided, such violator or violators, upon conviction, shall be fined not more than \$10,000 or imprisoned not more than five years, or both."

Section II

THE PRESIDENT'S PROCLAMATION OF SEPTEMBER 25, 1935

The President's proclamation of September 25, 1935, made pursuant to the final paragraph of section 2 of the joint resolution of August 31, 1935, reads as follows:

"BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

"A PROCLAMATION

"WHEREAS section 2 of a joint resolution of Congress, entitled 'JOINT RESOLUTION Providing for the prohibition of the export of arms, ammunition, and implements of war to belligerent countries; the prohibition of the transportation of arms, ammunition, and implements of war by vessels of the United States for the use of belligerent states; for the registration and licensing of persons engaged in the business of manufacturing, exporting, or importing arms, ammunition, or implements of war; and restricting travel by American citizens on belligerent ships during war', approved August 31, 1935, provides in part as follows:

"'The President is hereby authorized to proclaim upon recommendation of the Board from time to time a list of articles which shall be considered arms, ammunition, and implements of war for the purposes of this section',

"NOW, THEREFORE, I, FRANKLIN D. ROOSEVELT, President of the United States of America, acting under and by virtue of the authority conferred upon me by the said joint resolution of Congress, and pursuant to the recommendation of the National Munitions Control Board, declare and proclaim that the articles listed below shall be considered arms, ammunition, and implements of war for the purposes of section 2 of the said joint resolution of Congress:

"Category I

"(1) Rifles and carbines using ammunition in excess of cal. 26.5, and their barrels;

"(2) Machine guns, automatic rifles, and machine pistols of all calibers, and their barrels;

"(3) Guns, howitzers, and mortars of all calibers, their mountings and barrels;

"(4) Ammunition for the arms enumerated under (1) and (2) above, i. e., high-power steel-jacketed ammunition in excess of cal. 26.5; filled and unfilled projectiles and propellants with a web thickness of .015 inch or greater for the projectiles of the arms enumerated under (3), above;

"(5) Grenades, bombs, torpedoes, and mines, filled or unfilled, and apparatus for their use or discharge;

"(6) Tanks, military armored vehicles, and armored trains.

"Category II

"Vessels of war of all kinds, including aircraft carriers and submarines.

"Category III

"(1) Aircraft, assembled or dismantled, both heavier and lighter than air, which are designed, adapted, and intended for aerial combat by the use of machine guns or of artillery or for the carrying and dropping of bombs, or which are equipped with, or which by reason of design or construction are prepared for, any of the appliances referred to in paragraph (2), below.

"(2) Aerial gun mounts and frames, bomb racks, torpedo carriers, and bomb or torpedo release mechanisms.

"Category IV

"Revolvers and automatic pistols of a weight in excess of 1 pound 6 ounces (630 grams), using ammunition in excess of cal. 26.5, and ammunition therefor.

"Category V

"(1) Aircraft assembled or dismantled, both heavier and lighter than air, other than those included in category III;

"(2) Propellers or air screws, fuselages, hulls, tail units, and under carriage units;

"(3) Aircraft engines.

"Category VI

"(1) Livens projectors and flame throwers;

"(2) Mustard gas, lewisite, ethyldichlorarsine, and methyldichlorarsine.

"IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States to be affixed.

"DONE at the City of Washington this 25th day of September, in the year of our Lord nineteen hundred and thirty-five,
[SEAL] and of the Independence of the United States of America the one hundred and sixtieth.

FRANKLIN D ROOSEVELT

"By the President:

"CORDELL HULL

"*Secretary of State.*"

Section III

GENERAL REGULATIONS

In compliance with that paragraph of section 2 of the joint resolution approved August 31, 1935, which requires the Secretary of State to promulgate such rules and regulations with regard to the enforcement of that section as he may deem necessary to carry out its provisions, the Secretary of State, after consultation with the other members of the National Munitions Control Board, promulgates the following regulations:

(1) On or before November 29, 1935, or thereafter upon first engaging in the business of manufacturing, exporting, or importing any of

the arms, ammunition, or implements of war enumerated in the President's proclamation of September 25, 1935, all persons engaged in the manufacture, exportation, or importation of any of these articles shall register with the Secretary of State by duly filling out and transmitting to the Secretary of State an application for registration in the form printed below. Applications for registration must be signed and sworn to in the presence of a notary public before they are transmitted to the Secretary.

REGISTRATION NUMBER

(Not to be filled in by the applicant)

United States of America

DEPARTMENT OF STATE

APPLICATION FOR REGISTRATION

For Persons Engaged in the Business of Manufacturing, Exporting, or Importing Arms, Ammunition, and Implements of War, Pursuant to Section 2 of the Joint Resolution of Congress Approved by the President August 31, 1935.

(The applicant shall fill in all of the following spaces)

(1) Name of person (the term "person" includes a partnership, company, association, or corporation, as well as a natural person)

(2) Principal place of business:

(3) Other places of business in the United States:

(4) The applicant is engaged in the ^(manufacture) ~~(importation)~~ of arms, ammunition, or implements of war. ^(exportation) (Strike out the designation or designations not applicable to the business of the applicant.)

(5) List of the arms, ammunition, and implements of war manufactured, imported, or exported. (The articles manufactured, imported, or exported shall be listed under the following categories in precisely the same terms in which they are listed in the President's proclamation of September 25, 1935.)

Category I

Category II

Category III

Category IV

Category V

Category VI

The above list includes all articles defined as arms, ammunition, and implements of war by the President's proclamation of September 25, 1935, which are manufactured, imported, or exported by the undersigned.

(Signature)
(If the applicant is a partnership, company, association, or corporation, the signature shall be that of its duly authorized representative.)

Signed and sealed in my presence this day of, 19....

(Notary public)

The registration fee of \$500 is transmitted herewith in the form of {certified check}
(Checks should be made payable to the order of the Secretary of State.) {money orders}

(Perforation)

REGISTRATION NUMBER

(Not to be filled in by the applicant)

United States of America

DEPARTMENT OF STATE

CERTIFICATE OF REGISTRATION

For Persons Engaged in the Business of Manufacturing, Exporting, or Importing Arms, Ammunition, and Implements of War, Pursuant to Section 2 of the Joint Resolution of Congress Approved by the President August 31, 1935.

(The applicant shall fill in all of the following spaces)

(1) Name of person (the term "person" includes a partnership, company, association, or corporation as well as a natural person)

(2) Principal place of business:

(3) Other places of business in the United States:

(4) The applicant is engaged in the {manufacture}
{importation} of arms, ammunition, or implements of war. (Strike
{exportation} out the designation or designations not applicable to the business of the applicant.)

(5) List of the arms, ammunition, and implements of war manufactured, imported, or exported. (The articles manufactured, imported, or exported shall be listed under the following categories in precisely the same terms in which they are listed in the President's proclamation of September 25, 1935.)

*Category I**Category II**Category III**Category IV**Category V**Category VI*

(These spaces are not to be filled in by the applicant)

This certifies that the person named above has registered in compliance with the provisions of the joint resolution of Congress approved August 31, 1935, and has paid the required registration fee of \$500. This certificate is valid for a period of 5 years from

(SEAL)

FOR THE SECRETARY OF STATE:
By.....

(2) Applications for registration transmitted to the Secretary of State must be accompanied by a registration fee of \$500 in the form of money orders or a certified check. Checks should be made payable to the order of the Secretary of State.

(3) Upon receipt of an application for registration, and the appended certificate of registration, duly filled out and accompanied by a registration fee of \$500, the Secretary of State will return to the applicant, as a receipt, the certificate of registration, duly signed and sealed. This certificate of registration must be conspicuously displayed at the principal place of business of the person registered.

(4) Every person registered shall notify the Secretary of State of any change in the list of arms, ammunition, and implements of war which he manufactures, exports, or imports, and, upon such notification, the Secretary of State will issue to such person an amended certificate of registration free of charge, which will remain valid until the date of expiration of the original certificate issued to him.

(5) The production for experimental or scientific purposes, when such production is not followed by sale, of the appliances and substances included in category VI, or of single units of other arms, ammunition, and implements of war, is not considered as manufacture for the purposes of section 2 of the joint resolution.

(6) The provisions of these regulations shall be considered as binding in addition to, and not in lieu of, those established under the act known as "The National Firearms Act" (48 Stat. 1236), approved by the President June 26, 1934. This act imposes certain taxes and restrictions upon the manufacture of, importation of, and commerce in certain firearms which are defined as "a shotgun or rifle having a barrel of less than eighteen inches in length, or any other weapon, except a pistol or revolver, from which a shot is discharged by an explosive if such weapon is capable of being concealed on the person, or a machine gun, and includes a muffler or silencer for any firearm whether or not such firearm is included within the foregoing definition." Rules and regulations for the enforcement of this act are prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury.

(7) No person not registered under section 2 shall export or import any of the arms, ammunition, or implements of war listed in the President's proclamation of September 25, 1935. All persons registered shall obtain from the Secretary of State a license to cover each shipment exported or imported. Blank forms of application for license similar to those printed below will be furnished by the Secretary of State upon request.

DEPARTMENT OF STATE

United States of America

APPLICATION FOR LICENSE TO EXPORT ARMS, AMMUNITION, OR IMPLEMENTS OF WAR

(Application to be made in duplicate)

ORIGINAL

APPLICANT'S REGISTRATION NO.	----- (Insert here name of country of destination)	LICENSE NO. (For official use only)
-----------------------------------	---	---

GENERAL INSTRUCTIONS

- (a) One duplicate application should be made for each complete shipment to any one consignee and may cover more than one commodity, but may not cover shipments to more than one country.
- (b) Applications should be typewritten, with the exception of signature, but will be considered if written legibly in ink.
- (c) Where exact number of packages, weight, and value cannot be ascertained at the time of application, estimates should be given. Slight variations may be allowed.
- (d) Commodities appearing under (c) below should be listed under the same categories and in the same terms as they appear in the President's proclamation of September 25, 1935, unless they are not covered by this proclamation.
- (e) Unsigned applications or applications which omit essential information called for in the numbered spaces will be returned.
- (f) Any attempt to export a commodity differing in any way from that licensed, or any alteration of a license in an attempt to export without a license, is punishable under appropriate acts of Congress.
- (g) When countersigned and impressed with the seal of the Department of State this application becomes a license.

Description	Quantity	Number of articles	Value	Port of exit	Date	Name of officer

Date of license -----

(For official use only)

(When countersigned and impressed with the seal of the Department of State this application becomes a license.)

FOR THE SECRETARY OF STATE:

By -----

(For official use only)

DEPARTMENT OF STATE

United States of America

APPLICATION FOR LICENSE TO IMPORT ARMS, AMMUNITION, OR
IMPLEMENTS OF WAR

(Application to be made in duplicate)

ORIGINAL

APPLICANT'S REGISTRATION NO.	----- (insert here name of country of origin)	LICENSE NO. (For official use only)
-----------------------------------	--	---

GENERAL INSTRUCTIONS

- (a) One duplicate application should be made for each complete shipment imported and may cover more than one commodity, but may not cover shipments from more than one country.
- (b) Applications should be typewritten, with the exception of signature, but will be considered if written legibly in ink.
- (c) Where exact number of packages, weight, and value cannot be ascertained at the time of application, estimates should be given. Slight variations may be allowed.
- (d) Commodities appearing under (b) below should be listed under the same categories and in the same terms as they appear in the President's proclamation of September 25, 1935.
- (e) Unsigned applications or applications which omit essential information called for in the numbered spaces will be returned.
- (f) Any attempt to import a commodity differing in any way from that licensed, or any alteration of a license in an attempt to import without a license, is punishable under appropriate acts of Congress.
- (g) When countersigned and impressed with the seal of the Department of State this application becomes a license.

DEPARTMENT OF STATE,
Washington, D. C.

(1) Date of application
(2) Applicant's Reference No.

The undersigned hereby applies for license to import the commodity described below and warrants the truth of all statements and answers herewith made regarding it.

(3) Name of applicant By
(To be signed in ink)
(4) Consignor in foreign country { Name Nationality
Address { Street State or province
City Country
(5) Seller in foreign country { Name Nationality
Address { Street State or province
City Country

(6) Commodity and quantity thereof (to be listed as indicated under instruction (d))	(7) Number of articles	(8) Approximate weight	(9) Approximate value

(10) State the specific purpose for which the material is required

(11) License to be sent to { Name
Address: Street City State

(12) Consignee in United States { Name Nationality
Address: Street City State
Nature of business

License is hereby granted to the applicant mentioned herein to import into the United States of America from the commodity as described and in the quantity given, on the following terms and conditions:

This license is not transferable and is subject to revocation without notice.

Shipment must be received at the port of entry within 4 months from date of this license as given below under the seal of the Department.

If partial shipments are received on this license, endorsements by the collectors of customs will be made below.

Description	Quantity	Number of articles	Value	Port of entry	Date	Name of officer

Date of license.....
(For official use only)

(When countersigned and impressed
with the seal of the Department of State
this application becomes a license.)

FOR THE SECRETARY OF STATE:

By

(For official use only)

(8) The Secretary of State will issue import licenses to all applicants who have duly filled out an application for license, provided that, in case the articles to be imported are firearms, as enumerated in the National Firearms Act of June 26, 1934, referred to under (6) above, the importer has conformed to the pertinent regulations prescribed by the Secretary of the Treasury.

(9) The Secretary of State will issue export licenses to all applicants who have duly filled out an application for license, unless the exportation of arms, ammunition, or implements of war for which a license is applied for would be in violation of a law of the United States or of a treaty to which the United States is a party. (See sections V, VI, VII, VIII, and IX below.)

(10) The shipper's export declaration (customs form 7525) covering arms, ammunition, or implements of war for which an export license is required must contain the same information in regard to the nature and the value of the articles to be exported as that which appears on the application for license.

(11) Export licenses and export declarations covering arms, ammunition, and implements of war must be filed with the appropriate collector of customs at least 24 hours before the proposed departure of the shipment from the United States, and, in the case of a shipment by a sea-going vessel, 24 hours before the lading of the vessel.

(12) Arms, ammunition, and implements of war covered by an export license must, when exported, be packed separately from all other goods.

(13) Articles entering a port of the United States for transshipment to a foreign country and articles in transit through the territory of the United States will not be considered as imported into the United States within the meaning of section 2 of the joint resolution.

(14) Rifles and revolvers entering the United States in single units for the individual use of the person to whom consigned will not be considered as imported within the meaning of section 2 of the joint resolution. (This does not relieve the consignee from the obligation to comply with such of the regulations prescribed by the Secretary of the Treasury under the National Firearms Act of June 26, 1934, referred to in (6) above, as may be applicable in the premises.)

(15) Arms and ammunition intended exclusively for sporting or scientific purposes or for personal protection, when entering or leaving the United States carried on the person of an individual or in his baggage, will not be considered as imported or exported within the meaning of section 2 of the joint resolution.

(16) Arms and implements of war which have been legally exported from the United States and which are returned to the United States worn or damaged to be repaired will not be considered as imported within the meaning of section 2 of the joint resolution. An export license must be obtained, however, before such articles are reexported.

(17) Airplanes flown from the United States will not be considered as exported within the meaning of section 2 of the joint resolution when there is no intention on the part of their owners to dispose of them or of any of their essential parts listed in the President's proclamation of September 25, 1935, in any foreign country. Should the owners, after the departure of a plane flown from the United States without an export license, propose to dispose of the plane or any of the essential parts referred to, in any foreign country, the plane or the parts which it is proposed to dispose of must be returned to this country and an export license obtained before they are exported from the United States to the country in which it is proposed to dispose of them. Airplanes of American registry returning to the United States from foreign countries and airplanes of foreign registry entering the United

States in flight for a temporary sojourn will not be considered as imported within the meaning of section 2 of the joint resolution.

Section IV

RECORDS OF MANUFACTURE, EXPORT, AND IMPORT

The National Munitions Control Board prescribes that all persons required to register under section 2 of the joint resolution approved August 31, 1935, shall maintain, subject to the inspection of the duly authorized agents of the Board or of any other enforcement agency of the Government of the United States, and distinct from all other records, special permanent records in which shall be recorded the amounts and estimated values of the arms, ammunition, and implements of war manufactured by them for export, and similar records of all arms, ammunition, and implements of war imported or exported by them. The records of articles imported shall, in addition, contain information as to the consignors of articles imported and the port of origin of each shipment. The records of articles exported shall, in addition, contain information as to the consignees and the destination of each shipment.

Section V

SPECIAL PROVISIONS REGARDING MILITARY SECRETS

Title I of an act approved June 15, 1917, reads in part as follows:

"Whoever, with intent or reason to believe that it is to be used to the injury of the United States or to the advantage of a foreign nation, communicates, delivers, or transmits, or attempts to, or aids or induces another to, communicate, deliver, or transmit, to any foreign government, or to any faction or party or military or naval force within a foreign country, whether recognized or unrecognized by the United States, or to any representative, officer, agent, employee, subject, or citizen thereof, either directly or indirectly, any document, writing, code book, signal book, sketch, photograph, photographic negative, blue print, plan, map, model, note, instrument, appliance, or information relating to the national defense, shall be punished by imprisonment for not more than twenty years . . . "

The Secretary of State will not issue an export license to cover the shipment of any arms, ammunition, or implements of war considered by the Secretary of War or by the Secretary of the Navy as instruments or appliances included among the articles covered by those terms as used in this act.

Section VI

SPECIAL PROVISIONS REGARDING NAVAL ARMAMENT

The Treaty for the Limitation of Naval Armament, concluded at Washington February 6, 1922, contains the following provisions in regard to the international traffic in vessels of war:

"ARTICLE XV.

"No vessel of war constructed within the jurisdiction of any of the Contracting Powers for a non-Contracting Power shall exceed the limitations as to displacement and armament prescribed by the present Treaty for vessels of a similar type which may be constructed by or for any of the Contracting Powers; provided, however, that the displacement for aircraft carriers constructed for a non-Contracting Power shall in no case exceed 27,000 tons (27,432 metric tons) standard displacement."

"ARTICLE XVIII.

"Each of the Contracting Powers undertakes not to dispose by gift, sale or any mode of transfer of any vessel of war in such a manner that such vessel may become a vessel of war in the Navy of any foreign Power."

The Secretary of State will not issue an export license to cover the exportation of a vessel of war constructed in violation of article XV, or for any vessel of war, the exportation of which would be in violation of article XVIII.

Section VII

SPECIAL PROVISIONS REGARDING CHINA, CUBA, HONDURAS, AND NICARAGUA

A joint resolution of Congress approved January 31, 1922, reads as follows:

" . . . That whenever the President finds that in any American country, or in any country in which the United States exercises extraterritorial jurisdiction, conditions of domestic violence exist, which are or may be promoted by the use of arms or munitions of war procured from the United States, and makes proclamation thereof, it shall be unlawful to export, except under such limitations and exceptions as the President prescribes, any arms or munitions of war from any place in the United States to such country until otherwise ordered by the President or by Congress.

"SEC. 2. Whoever exports any arms or munitions of war in violation of section 1 shall, on conviction, be punished by fine not exceeding \$10,000, or by imprisonment not exceeding two years, or both."

Pursuant to the authority conferred by this joint resolution, a Presidential proclamation, which is still in effect, was issued on March 4, 1922, in respect to China, as follows:

"BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

"A PROCLAMATION

"WHEREAS, Section I of a Joint Resolution of Congress, entitled a 'Joint Resolution To prohibit the exportation of arms or munitions of war from the United States to certain countries, and for other purposes,' approved January 31, 1922, provides as follows:

" 'That whenever the President finds that in any American country, or in any country in which the United States exercises extraterritorial jurisdiction, conditions of domestic violence exist, which are or may be promoted by the use of arms or munitions of war procured from the United States, and makes proclamation thereof, it shall be unlawful to export, except under such limitations and exceptions as the President prescribes, any arms or munitions of war from any place in the United States to such country until otherwise ordered by the President or by Congress. '

"And whereas, it is provided by Section II of the said Joint Resolution that 'Whoever exports any arms or munitions of war in violation of section 1 shall on conviction, be punished by fine not exceeding \$10,000, or by imprisonment not exceeding two years, or both.'

"Now, therefore, I, Warren G. Harding, President of the United States of America, acting under and by virtue of the authority conferred in me by the said Joint Resolution of Congress, do hereby declare and proclaim that I have found that there exist in China such conditions of domestic violence which are or may be promoted by the use of arms or munitions of war procured from the United States as contemplated by the said Joint Resolution; and I do hereby admonish all citizens of the United States and every person to abstain from every violation of the provisions of the Joint Resolution above set forth, hereby made applicable to China, and I do hereby warn them that all violations of such provisions will be rigorously prosecuted.

"And I do hereby enjoin upon all officers of the United States, charged with the execution of the laws thereof, the utmost diligence in preventing violations of the said Joint Resolution and this my Proclamation issued thereunder, and in bringing to trial and punishment any offenders against the same.

"And I do hereby delegate to the Secretary of State the Power of prescribing exceptions and limitations to the application of the said Joint Resolution of January 31, 1922, as made effective by this my Proclamation issued thereunder.

"IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States to be affixed.

"DONE at the City of Washington this fourth day of March in the year of our Lord one thousand nine hundred and [SEAL] twenty-two and of the Independence of the United States of America the one hundred and forty-sixth.

WARREN G HARDING

"By the President:

"HENRY P. FLETCHER

"Acting Secretary of State."

Similar Presidential proclamations, which are still in effect, were issued on March 22, 1924, in respect of Honduras; on September 15, 1926, in respect of Nicaragua; and on June 29, 1934, in respect of Cuba.

In accordance with the authority conferred upon him in these proclamations, the Secretary of State announces that the exportation to China, Cuba, Honduras, and Nicaragua of the arms, ammunition, and implements of war listed in the President's proclamation of September 25, 1935, will be permitted only when the Department of State has been informed by the Chinese Embassy in Washington, the Cuban Embassy in Washington, the Honduran Legation in Washington, or the Nicaraguan Legation in Washington, as the case may be, that it is the desire of the government of the country into which the arms, ammunition, or implements of war are to be imported, that the exportation of the shipment be authorized.

The bringing about of notification to the Department of State through the appropriate embassy or legation that the government of an importing state desires that the exportation of a shipment be authorized is a matter with regard to which the initiative and responsibility lie with the importing government and the potential shipper.

In compliance with article II of the convention between the United States and Cuba to suppress smuggling, signed at Habana March 11, 1926, which reads in part as follows:

"The High Contracting Parties agree that clearance of shipments of merchandise by water, air, or land, from any of the ports of either country to a port of entry of the other country, shall be denied when such shipment comprises articles the importation of which is prohibited or restricted in the country to which such shipment is destined, unless in this last case there has been a compliance with the requisites demanded by the laws of both countries."

and in compliance with the laws of Cuba which restrict the importation of arms, ammunition, and implements of war of all kinds by

requiring an import permit for each shipment, export licenses for shipments of arms, ammunition, and implements of war to Cuba are required for the articles enumerated below in addition to the articles enumerated in the President's proclamation of September 25, 1935:

- (1) Arms and small arms using ammunition less than cal. 26.5, other than those classed as toys.
- (2) Spare parts of arms and small arms of all kinds and calibers, other than those classed as toys, and of guns and machine guns.
- (3) Ammunition for the arms and small arms under (1) above.
- (4) Sabers, swords, and military machetes with cross-guard hilts.
- (5) Explosives as follows: Explosive powders of all kinds for all purposes; nitrocellulose; diphenylamine; trinitrotoluene; tetryl; dynamite of all kinds; nitroglycerine; ammonal; ammonium picrate; alkaline nitrates (including ammonium, potassium, and sodium nitrate); nitric acid; nitrobenzene (essence or oil of mirbane); sulphur; sulphuric acid; chlorate of potash; picric acid; and acetones.
- (6) Tear gas ($C_6H_5COCH_2CL$) and other similar nontoxic gases and apparatus designed for the storage or the projection of such gases.

No export licenses will be issued for shipments destined to China, Cuba, Honduras, or Nicaragua of the appliances and substances listed under category VI in the President's proclamation of September 25, 1935.

Section VIII¹

SPECIAL PROVISIONS REGARDING BOLIVIA AND PARAGUAY

On May 28, 1934, the President issued the following proclamation:

"BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

"A PROCLAMATION

"WHEREAS section 1 of a joint resolution of Congress, entitled 'Joint Resolution To prohibit the sale of arms or munitions of war in the United States under certain conditions', approved May 28, 1934, provides as follows:

" 'That if the President finds that the prohibition of the sale of arms and munitions of war in the United States to those countries now engaged in armed conflict in the Chaco may contribute to the reestablishment of peace between those countries, and if after consultation with the governments of other American Republics and with their cooperation, as well as that of such other governments as he may deem necessary, he makes proclamation to that effect, it shall be unlawful to sell, except under such limitations and exceptions as the President prescribes, any arms or munitions of war in any place in the United States to the countries now engaged in that armed conflict, or to any person, company, or association acting in the interest of either country, until otherwise ordered by the President or by Congress.'

¹ Sec. 8 revoked.

"AND WHEREAS, it is provided by section 2 of the said joint resolution that—

"Whoever sells any arms or munitions of war in violation of section 1 shall, on conviction, be punished by a fine not exceeding \$10,000 or by imprisonment not exceeding two years, or both."

"NOW, THEREFORE, I, FRANKLIN D. ROOSEVELT, President of the United States of America, acting under and by virtue of the authority conferred in me by the said joint resolution of Congress, do hereby declare and proclaim that I have found that the prohibition of the sale of arms and munitions of war in the United States to those countries now engaged in armed conflict in the Chaco may contribute to the reestablishment of peace between those countries, and that I have consulted with the governments of other American Republics and have been assured of the cooperation of such governments as I have deemed necessary as contemplated by the said joint resolution; and I do hereby admonish all citizens of the United States and every person to abstain from every violation of the provisions of the joint resolution above set forth, hereby made applicable to Bolivia and Paraguay, and I do hereby warn them that all violations of such provisions will be rigorously prosecuted.

"And I do hereby enjoin upon all officers of the United States charged with the execution of the laws thereof, the utmost diligence in preventing violations of the said joint resolution and this my proclamation issued thereunder, and in bringing to trial and punishment any offenders against the same.

"And I do hereby delegate to the Secretary of State the power of prescribing exceptions and limitations to the application of the said joint resolution of May 28, 1934, as made effective by this my proclamation issued thereunder.

"IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States to be affixed.

"DONE at the city of Washington this twenty-eighth day of May, in the year of our Lord nineteen hundred and [SEAL] thirty-four, and of the Independence of the United States of America the one hundred and fifty-eighth.

FRANKLIN D ROOSEVELT

"By the President:

"CORDELL HULL

"Secretary of State."

No export licenses will be issued to cover the exportation to Bolivia or Paraguay of any of the arms, ammunition, or implements of war listed in the President's proclamation of September 25, 1935. In the case of shipments of arms, ammunition, and implements of war from the United States not ostensibly destined to Bolivia or Paraguay, the Secretary of State may require exporters to present convincing evidence that they are not destined to either of those countries and may refuse to issue an export license for the same until such convincing evidence has been presented to him.

Section IX

SPECIAL PROVISIONS REGARDING ITALY AND ETHIOPIA

The President, on October 5, 1935, issued a proclamation as follows:

"BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

"A PROCLAMATION

"WHEREAS section 1 of a joint resolution of Congress, entitled 'JOINT RESOLUTION Providing for the prohibition of the export of arms, ammunition, and implements of war to belligerent countries; the prohibition of the transportation of arms, ammunition, and implements of war by vessels of the United States for the use of belligerent states; for the registration and licensing of persons engaged in the business of manufacturing, exporting, or importing arms, ammunition, or implements of war; and restricting travel by American citizens on belligerent ships during war', approved August 31, 1935, provides in part as follows:

"That upon the outbreak or during the progress of war between, or among, two or more foreign states, the President shall proclaim such fact, and it shall thereafter be unlawful to export arms, ammunition, or implements of war from any place in the United States, or possessions of the United States, to any port of such belligerent states, or to any neutral port for transshipment to, or for the use of, a belligerent country."

"AND WHEREAS it is further provided by section 1 of the said joint resolution that—

"The President, by proclamation, shall definitely enumerate the arms, ammunition, or implements of war, the export of which is prohibited by this Act."

"AND WHEREAS it is further provided by section 1 of the said joint resolution that—

"Whoever, in violation of any of the provisions of this section, shall export, or attempt to export, or cause to be exported, arms, ammunition, or implements of war from the United States, or any of its possessions, shall be fined not more than \$10,000 or imprisoned not more than five years, or both, and the property, vessel, or vehicle containing the same shall be subject to the provisions of sections 1 to 8, inclusive, title 6, chapter 30, of the Act approved June 15, 1917 (40 Stat. 223-225; U. S. C., title 22, secs. 238-245)."

"NOW, THEREFORE, I, FRANKLIN D. ROOSEVELT, President of the United States of America, acting under and by virtue of the authority conferred on me by the said joint resolution of Congress, do hereby proclaim that a state of war unhappily exists between Ethiopia and the Kingdom of Italy; and I do hereby admonish all citizens of the United States or any of its possessions and all persons residing or being within the territory or jurisdiction of the United

States or its possessions to abstain from every violation of the provisions of the joint resolution above set forth, hereby made effective and applicable to the export of arms, ammunition, or implements of war from any place in the United States or its possessions to Ethiopia or to the Kingdom of Italy, or to any Italian possession, or to any neutral port for transshipment to, or for the use of, Ethiopia or the Kingdom of Italy.

"And I do hereby declare and proclaim that the articles listed below shall be considered arms, ammunition, and implements of war for the purposes of section 1 of the said joint resolution of Congress:

[Here follows the enumeration of articles as in the proclamation printed in section II, pages 3 and 4.]

"And I do hereby enjoin upon all officers of the United States, charged with the execution of the laws thereof, the utmost diligence in preventing violations of the said joint resolution, and this my proclamation issued thereunder, and in bringing to trial and punishment any offenders against the same.

"And I do hereby delegate to the Secretary of State the power of prescribing regulations for the enforcement of section 1 of the said joint resolution of August 31, 1935, as made effective by this my proclamation issued thereunder.

"IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States to be affixed.

"DONE at the City of Washington this 5th day of October, in the year of our Lord nineteen hundred and thirty-five, and of [SEAL] the Independence of the United States of America the one hundred and sixtieth.

FRANKLIN D ROOSEVELT

"By the President:

"CORDELL HULL

"Secretary of State."

No export licenses will be issued for shipments destined to Ethiopia or Italy or any Italian possession of any of the arms, ammunition, or implements of war enumerated in the President's proclamation of October 5, 1935.

By virtue of the power delegated to the Secretary of State to prescribe regulations for the enforcement of section 1 of the joint resolution of August 31, 1935, and of the President's proclamation issued thereunder, the Secretary of State may require exporters of any of the arms, ammunition, or implements of war enumerated in the President's proclamation to present convincing evidence that they are not destined to Ethiopia, Italy, or Italian possessions and may refuse to issue an export license for the same until such convincing evidence has been presented to him.

V

[FOR THE PRESS]

DEPARTMENT OF STATE,
December 3, 1935.

STATEMENT OF THE SECRETARY OF STATE

There will be released today a statement containing a list of the persons and companies engaged in the manufacture, exportation, and importation of arms who have registered with the Secretary of State in compliance with the provisions of section 2 of the Neutrality Act.

A number of companies which, it is presumed, should have registered have not done so. It is hoped that their failure to do so has been due to inadvertence, and that they will comply with the law within the next few days. However, should they fail to do so within a reasonable time, I shall find myself obliged to send the names of the companies which are presumed to have failed to comply with the law to the Attorney General for such action as he may deem appropriate.

VI

[FOR THE PRESS]

DEPARTMENT OF STATE,
December 3, 1935.

Section 2 of the joint resolution approved by the President August 31, 1935, commonly referred to as the Neutrality Act, reads in part as follows:

"Within ninety days after the effective date of this Act, or upon first engaging in business, every person who engages in the business of manufacturing, exporting, or importing any of the arms, ammunition, and implements of war referred to in this Act, whether as an exporter, importer, manufacturer, or dealer, shall register with the Secretary of State his name, or business name, principal place of business, and places of business in the United States, and a list of the arms, ammunition, and implements of war which he manufactures, imports, or exports.

* * * * *

"Licenses shall be issued to persons who have registered as provided for, except in cases of export or import licenses where exportation of arms, ammunition, or implements of war would be in violation of this Act or any other law of the United States, or of a treaty to which the United States is a party, in which cases such licenses shall not be issued.

* * * * *

"No purchase of arms, ammunition, and implements of war shall be made on behalf of the United States by any officer, executive department, or independent establishment of the Government from any person who shall have failed to register under the provisions of this Act.

* * * * *

"In every case of the violation of any of the provisions of this Act where a specific penalty is not herein provided, such violator or violators, upon conviction, shall be fined not more than \$10,000 or imprisoned not more than five years, or both."

The 90 days mentioned in the first of the extracts quoted above came to an end on November 29, 1935.

On September 25, 1935, the President, acting upon the recommendation of the National Munitions Control Board, issued a proclamation enumerating the articles which would be considered arms, ammunition, and implements of war for the purposes of section 2 of the Neutrality Act.

The following persons and companies have registered with the Secretary of State pursuant to the provision of the act quoted above:

Aerial Machine & Tool Corporation, 260 West Street, New York, N. Y.
 Aero Supply Manufacturing Corporation, 611 West Main Street, Corry, Pa.
 Air Associates, Inc., Roosevelt Field, Garden City, Long Island, N. Y.
 Air Cruisers, Inc., 330 Highland Avenue, Clifton, N. J.
 Airplane Development Corporation, 105 West Adams Street, Chicago, Ill.
 Allison Engineering Co., Indianapolis, Ind.
 American Armament Corporation, 6 East Forty-fifth Street, New York, N. Y.
 Amtorg Trading Corporation, 261 Fifth Avenue, New York, N. Y.
 Aviation Equipment & Export, Inc., 25 Beaver Street, New York, N. Y.
 Aviation Manufacturing Corporation, 105 West Adams Street, Chicago, Ill.
 Atlas Powder Co., Wilmington, Del.
 Francis Bannerman & Sons, 501 Broadway, New York, N. Y.
 Beech Aircraft Co., Wichita, Kans.
 Bell Aircraft Co., 2050 Elmwood Avenue, Buffalo, N. Y.
 Bethlehem Shipbuilding Corporation, Ltd., Quincy, Mass.
 Bethlehem Steel Co., Bethlehem, Pa.
 Boeing Aircraft Co., Georgetown Station, Seattle, Wash.
 Brewster Aeronautical Corporation, 27-01 Bridge Plaza, North, Long Island City, N. Y.
 Carnegie-Illinois Steel Co., 434 Fifth Avenue, Pittsburgh, Pa.
 Chrysler Corporation, Detroit, Mich.
 Colt's Patent Fire Arms Manufacturing Co., 17 Van Dyke Avenue, Hartford, Conn.
 Consolidated Aircraft Corporation, Lindbergh Field, San Diego, Calif.
 Curtiss Aeroplane & Motor Co., Inc., Kenmore Avenue and Vulcan Streets, Buffalo, N. Y.
 Curtiss-Wright Export Corporation, 30 Rockefeller Plaza, New York, N. Y.
 Curtiss-Wright Airplane Co., Lambert Field, Robertson, Mo.
 Douglas Aircraft Co., Inc., 3000 Ocean Park Boulevard, Santa Monica, Calif.
 E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.
 Eclipse Aviation Corporation, East Orange, N. J.
 Electric Boat Co., Groton, Conn.
 Fay-Egan Manufacturing Co., Cincinnati, Ohio.
 Federal Laboratories, Inc., 185 Forty-first Street, Pittsburgh, Pa.
 Federal Shipbuilding & Drydock Co., Kearney, N. J.
 Fleetwings, Inc., Bristol, Pa.
 J. L. Galef, 75 Chambers Street, New York, N. Y.
 Goodyear Tire & Rubber Co., Akron, Ohio.
 Goodyear Tire & Rubber Co., Inc., Akron, Ohio.
 Grumman Aircraft Engineering Corporation, Farmingdale, Long Island, N. Y.
 Gulberson Diesel Engine Co., 1000 Forest Avenue, Dallas, Tex.
 Hall-Aluminum Aircraft Corporation, Bristol, Pa.
 Harrisburg Steel Corporation, Harrisburg, Pa.
 Hercules Powder Co., Wilmington, Del.
 Interamerican Aerotravel & Supplies, Inc., 420 Lexington Avenue, New York, N. Y.
 Intercontinent Corporation, 15 Exchange Place, Jersey City, N. Y.
 Jacobs Aircraft Engine Co., Pottstown, Pa.
 Kellett Autogiro Corporation, Island Road and Laycock Avenue, Philadelphia, Pa.
 Kinner Airplane & Motor Corporation, Ltd., 635 West Colorado Boulevard, Glendale, Calif.
 Lake Erie Chemical Co., 5806 Hough Avenue, Cleveland, Ohio.
 Lambert Aircraft Corporation, Lambert Field, Robertson, Mo.
 Lockheed Aircraft Corporation, Burbank, Calif.
 Marlin Firearms Co., 85 Willow Street, New Haven, Conn.
 Marmon-Herrington Co., Inc., 1001 York Street, Indianapolis, Ind.
 Glenn L. Martin Co., Baltimore, Md.
 Midvale Co., Nicetown, Philadelphia, Pa.
 Mitsubishi Shoji Kaisha, Ltd., 120 Broadway, New York, N. Y.
 Mitsui & Co., Ltd., 350 Fifth Avenue, New York, N. Y.
 National Tube Co., Pittsburgh, Pa.

Newport News Shipbuilding & Drydock Co., Newport News, Va.
 New York Shipbuilding Corporation, Camden, N. J.
 North American Aviation, Inc., 1775 Broadway, New York, N. Y.
 Northrop Corporation, 3000 Ocean Park Boulevard, Santa Monica, Calif.
 Okura & Co., 30 Church Street, New York, N. Y.
 Pan American Aviation Supply Corporation, 135 East Forty-second Street, New York, N. Y.
 Pennsylvania Forge Corporation, Philadelphia, Pa.
 Pitcairn Autogiro, Inc., Willow Grove, Pa.
 Pittsburgh Screw & Bolt Corporation, Pittsburgh, Pa.
 Remington Arms Co., Inc., Bridgeport, Conn.
 Riera, Zumeta & Tous, Inc., 40 Water Street, New York, N. Y.
 Savage Arms Corporation, 100 East Forty-second Street, New York, N. Y.
 R. F. Sedgley, Inc., 2311 North Sixteenth Street, Philadelphia, Pa.
 Sensenich Bros., Lititz, Pa.
 Smith & Wesson, Inc., Springfield, Mass.
 Sperry Gyroscope Co., Inc., Manhattan Bridge Plaza, Brooklyn, N. Y.
 Stearman Aircraft Co., Wichita, Kans.
 Stinson Aircraft Corporation, Wayne, Mich.
 A. F. Stoeger, Inc., 507 Fifth Avenue, New York, N. Y.
 Tri American Aviation, Inc., 150 East Fifth Street, New York, N. Y.
 United Aircraft Exports Corporation, East Hartford, Conn.
 United Aircraft Manufacturing Corporation, East Hartford, Conn.
 United States Cartridge Co., 111 Broadway, New York, N. Y.
 United States Ordnance Co., 1731 K Street NW., Washington, D. C.
 United Shipbuilding & Dry Dock Corporation, 11 Broadway, New York, N. Y.
 The Vimalert Co., Ltd., 835 Garfield Avenue, Jersey City, N. J.
 Waco Aircraft Co., Troy, Ohio.
 Western Cartridge Co., East Alton, Ill.
 Winchester Repeating Arms Co., 275 Winchester Avenue, New Haven, Conn.
 Wright Aeronautical Corporation, Paterson, N. J.

VII

[For the Press]

DEPARTMENT OF STATE,
January 18, 1936.

STATEMENT BY THE SECRETARY OF STATE

Section 2 of the joint resolution approved by the President August 31, 1935, commonly referred to as the Neutrality Act, reads in part as follows:

"Within ninety days after the effective date of this Act, or upon first engaging in business, every person who engages in the business of manufacturing, exporting, or importing any of the arms, ammunition, and implements of war referred to in this Act, whether as an exporter, importer, manufacturer, or dealer, shall register with the Secretary of State his name, or business name, principal place of business, and places of business in the United States, and a list of the arms, ammunition, and implements of war which he manufactures, imports, or exports.

"Licenses shall be issued to persons who have registered as provided for, except in cases of export or import licenses where exportation of arms, ammunition, or implements of war would be in violation of this Act or any other law of the United States, or of a treaty to which the United States is a party, in which cases such licenses shall not be issued.

"No purchase of arms, ammunition, and implements of war shall be made on behalf of the United States by any officer, executive department, or independent establishment of the Government from any person who shall have failed to register under the provisions of this act.

"In every case of the violation of any of the provisions of this Act where a specific penalty is not herein provided, such violator or violators, upon conviction,

tion, shall be fined not more than \$10,000 or imprisoned not more than five years, or both."

The 90 days mentioned in the first of the extracts quoted above came to an end on November 29, 1935.

On September 25, 1935, the President, acting upon the recommendation of the National Munitions Control Board, issued a proclamation enumerating the articles which would be considered arms, ammunition, and implements of war for the purposes of section 2 of the Neutrality Act.

On December 3, 1935, a statement was issued giving the names of the 86 persons and companies who had registered pursuant to section 2 of the joint resolution. Since that date the following 29 persons and companies have registered:

Aeronautical Corporation of America, Luken Airport, Cincinnati, Ohio.
 Bellanca Aircraft Corporation, New Castle, Del.
 China Airmotive Co., 25 Beaver Street, New York, N. Y.
 Continental Credit Corporation, Winchester, Ind.
 Continental Motors Corporation, 12801 East Jefferson Avenue, Detroit, Mich.
 Crucible Steel Co. of America, 405 Lexington Avenue, New York, N. Y.
 R. L. Dinely, 420 Market Street, San Francisco, Calif.
 Henry Disston & Sons, Inc., Tacony, Philadelphia, Pa.
 Edo Aircraft Corporation, College Point, Long Island, N. Y.
 Elevator Supplies Corporation, Hoboken, N. J.
 Fairchild Aircraft Corporation, Hagerstown, Md.
 Griffen & Howe, Inc., 202 East Forty-fourth Street, New York, N. Y.
 D. Hadjopoulos & Co., 24 Stone Street, New York, N. Y.
 Hartzell Industries, Inc., Piqua, Ohio.
 LeBlond Aircraft Engine Corporation, Cincinnati, Ohio.
 Menasco Manufacturing Co., 6714 McKinley Avenue, Los Angeles, Calif.
 Mercury Aircraft, Inc., Hammondsport, N. Y.
 Molded Insulation Co., 3246 Ludlow Street, Philadelphia, Pa.
 Moore-Eastwood Manufacturing Co., 114 East Fourth Street, Dayton, Ohio.
 National Forge & Ordnance Co., Irvine, Warren County, Pa.
 Pollak Manufacturing Co., 541 Devon Street, Arlington, N. J.
 Ranger Engineering Corporation, Farmingdale, Long Island, N. Y.
 R. A. Rearwin, Fairfax Airport, Kansas City, Kans.
 Seversky Aircraft Corporation, Farmingdale, Long Island, N. Y.
 St. Louis Aircraft Corporation, 8000 North Broadway, St. Louis, Mo.
 The Tredegar Co., Richmond, Va.
 United Air Lines Transport Corporation, 5936 South Cicero Avenue, Chicago, Ill.
 United Aircraft Products, Inc., Dayton, Ohio.
 Wah Chang Trading Corporation, 233 Broadway, New York, N. Y.

In my statement of December 3, 1935, I also said:

"A number of companies which, it is presumed, should have registered have not done so. It is hoped that their failure to do so has been due to inadvertence, and that they will comply with the law within the next few days. However, should they fail to do so within a reasonable time, I shall find myself obliged to send the names of the companies which are presumed to have failed to comply with the law to the Attorney General for such action as he may deem appropriate."

A number of companies which, it is presumed, should have registered under the terms of section 2 of the joint resolution approved by the President August 31, have still failed to do so. I have, therefore, been obliged to send the names of these companies to the Attorney General for such action as he may deem appropriate.

VIII

[For the Press. Confidential Release for Publication in the Morning Papers of Saturday, Dec. 14, 1935; Not to be Previously Published, Quoted From, or Used in Any Way]

DEPARTMENT OF STATE,
 December 15, 1935.

The table printed below indicates the number of export licenses for arms, ammunition, and implements of war issued by the Secretary of State from October 10 to November 30, 1935, inclusive, and the character of the arms, ammunition, and implements of war exported, their value, and the countries of destination:

Country of destination	Number of licenses issued	Categories	Value
Argentina.....	15	I (1) (2) (4) III (1) (2) IV (1) (2) V (1) (2) (3)	\$1,650.00 36,630.00 506.00 159,920.00 600.00 19,648.28 1,719.50 50,750.00 16,222.00 5,235.00
			292,880.76
Australia.....	21	I (1) (2) (4) IV (2)	272.60 20.00 527.75 1,895.18
			2,715.53
Brazil.....	9	I (4) IV (1) (2) V (1) (2) (3)	1,989.30 1,110.00 486.00 74,390.00 13,500.00 14,052.47
			105,527.77
Bolivia.....	1	V (3)	20,200.00
Canada.....	1	I (1)	248.00
China.....	6	I (1) III (1) IV (1) (2) V (2) (3)	17.00 51,300.00 2,000.00 2,276.00 25,276.13 151,198.00
			232,067.13
Costa Rica.....	1	V (3)	5,000.00
Cuba.....	13	I (1) (2) (4) (5) IV (1) (2) V (2)	49.00 2,080.00 484.00 1,260.00 4,198.30 860.00 350.00
			9,241.30
Colombia.....	1	V (2)	2,500.00
Dominican Republic.....	1	V (2)	2,500.00
El Salvador.....	1	I (1)	38.00
France.....	1	V (1)	325,000.00
Finland.....	2	V (3)	25,600.00
Great Britain.....	4	V (2) (3)	16,500.00 49,000.00
			65,500.00
Guatemala.....	1	IV (1)	60.00
Hong Kong.....	3	IV (1) (2)	2,785.00 475.00
			3,260.00
India.....	3	I (1) IV (1)	567.00 50.00
			617.00
Iran.....	1	V (2)	4,500.00
Iraq.....	2	IV (1) (2)	50.50 5.15
			55.65

Country of destination	Number of licenses issued	Categories	Value
Mexico.....	18	I (1) (4) IV (1) (2)	\$937. 21 911. 00 11, 215. 72 6, 501. 79 19, 565. 72
Netherlands.....	6	V (1) (2) (3)	188, 220. 00 3, 950. 00 12, 000. 00 204, 170. 00
Netherlands Indies.....	2	I (4) IV (1) (2)	11. 00 60. 00 26. 00 97. 00
New Zealand.....	4	I (1) IV (2)	112. 00 20. 00 132. 00
Nicaragua.....	1	IV (1)	48. 55
Norway.....	1	IV (2)	27. 84
Panama.....	1	I (4)	1, 800. 00
Paraguay.....	1	IV (2)	860. 00
Peru.....	1	V (2)	504. 00
Poland.....	2	V (2)	7, 500. 00
Portugal.....	1	V (2)	400. 00
Southern Rhodesia.....	1	IV (1)	51. 00
Turkey.....	1	I (1)	228. 00
Union of South Africa.....	4	I (1) (4) IV (2) V (2)	38. 00 7. 00 7. 00 200. 00 252. 00
Windward Islands.....	1	IV (2)	9. 00
Total.....	132		1, 333, 166. 25

October 10 was the date on which the Secretary of State promulgated regulations governing the issuance of export licenses pursuant to section 2 of the joint resolution of August 31, 1935. Restrictions on the exportation of arms, ammunition, and implements of war destined to Bolivia, China, Cuba, Honduras, Nicaragua, and Paraguay were already in effect on that date. The regulations governing the issuance of export licenses for shipments destined to those countries were revised when the general regulations issued pursuant to section 2 of the joint resolution of August 31 were promulgated.

The system of export licenses established by section 2 of the joint resolution did not become effective until November 29. Exporters who had registered with the Secretary of State between October 10 and November 29 applied, however, for export licenses before the latter date, in order that there might be no delay in the departure of the shipments scheduled to leave the United States on or immediately after that date.

No export licenses for arms, ammunition, or implements of war destined to Bolivia or Paraguay were issued until November 29 on which date the President's proclamation of November 14, revoking his proclamation of May 28, 1934, prohibiting the sale of such articles to those countries, became effective.

The categories of arms, ammunition, and implements of war in the third column of the above table are the categories into which those articles were divided in the President's proclamation of September 25 enumerating the articles which would be considered as arms, ammunition, and implements of war for the purposes of section 2 of the joint resolution of August 31, as follows:

Category I.

(1) Rifles and carbines using ammunition in excess of cal. .285, and their barrels.

(2) Machine guns, automatic rifles, and machine pistols of all calibers, and their barrels.

(3) Guns, howitzers, and mortars of all calibers, their mountings and barrels.

(4) Ammunition for the arms enumerated under (1) and (2) above, i. e., high-power steel-jacketed ammunition in excess of cal. .285; filled and unfilled projectiles and propellants with a web thickness of .015 inch or greater for the projectiles of the arms enumerated under (3) above.

(5) Grenades, bombs, torpedoes, and mines, filled or unfilled, and apparatus for their use or discharge.

(6) Tanks, military armored vehicles, and armored trains.

Category II.

Vessels of war of all kinds, including aircraft carriers and submarines.

Category III.

(1) Aircraft, assembled or dismantled, both heavier and lighter than air, which are designed, adapted, and intended for aerial combat by the use of machine guns or of artillery or for the carrying and dropping of bombs, or which are equipped with, or which by reason of design or construction are prepared for, any of the appliances referred to in paragraph (2) below.

(2) Aerial gun mounts and frames, bomb racks, torpedo carriers, and bomb or torpedo release mechanisms.

Category IV.

Revolvers and automatic pistols of a weight in excess of 1 pound and 6 ounces (630 grams), using ammunition in excess of cal. .285, and ammunition therefor.

NOTE.—(1) In the table printed above refers to revolvers and pistols and (2) refers to ammunition therefor.

Category V.

(1) Aircraft assembled or dismantled, both heavier and lighter than air, other than those included in category III.

(2) Propellers or air screws, fuselages, hulls, tail units, and under carriage units.

(3) Aircraft engines.

Category VI.

(1) Livens projectors and flame throwers.

(2) Mustard gas, lewisite, ethyldichlorarsine, and methyldichlorarsine.

In compliance with article II of the convention between the United States and Cuba to suppress smuggling, signed at Habana, March 11, 1926, which reads in part, as follows:

"The High Contracting Parties agree that clearance of shipments of merchandise by water, air, or land, from any of the ports of either country to a port of entry of the other country, shall be denied when such shipment comprises articles the importation of which is prohibited or restricted in the country to which such shipment is destined, unless in this last case there has been a compliance with the requisites demanded by the laws of both countries."

And in compliance with the laws of Cuba which restrict the importation of arms, ammunition, and implements of war of all kinds by requiring an important permit for each shipment, export licenses for shipments of arms, ammunition, and implements of war to Cuba are required for the articles enumerated below in addition to the articles enumerated in the President's Proclamation of September 25, 1935:

(1) Arms and small arms using ammunition less than cal. .285, other than those classed as toys.

(2) Spare parts of arms and small arms of all kinds and calibers, other than those classed as toys, and of guns and machine guns.

(3) Ammunition for the arms and small arms under (1) above.

(4) Sabers, swords, and military machetes with cross-guard hilts.

(5) Explosives as follows: Explosive powders of all kinds for all purposes; nitrocellulose; diphenylamine; trinitrotoluene; tetryl; dynamite of all kinds; nitroglycerine; ammonal; ammonium picrate; alkaline nitrates (including ammonium, potassium, and sodium nitrate); nitric acid; nitrobenzene (essence or oil of mirbane); sulphur; sulphuric acid; chlorate or potash; picric acid; and acetones.

(6) Tear gas ($C_6H_5COCH_2Cl$) and other similar nontoxic gases and apparatus designed for the storage or the projection of such gases.

The table printed below indicates the number of licenses issued between October 10 and November 30, 1935, inclusive, for exportation to Cuba of the articles and commodities listed in the preceding paragraph:

Number of licenses	Section	Value
44	(1)	\$659.95
	(2)	21.00
	(3)	4,029.75
	(5)	9,376.90
		14,087.60

Hereafter tables similar to those printed above will be prepared month by month and will be issued to the press before the middle of the month following that to which they refer.

IX

[For the press]

DEPARTMENT OF STATE,
January 10, 1936.

The table printed below indicates the number of export licenses for arms, ammunition, and implements of war issued by the Secretary of State from December 1 to December 31, 1935, inclusive, and the character of the arms, ammunition, and implements of war exported, their value, and the countries of destination:

Country of destination	Number of licenses issued	Categories	Value
Albania.....	1	IV (1)	\$121.00
Argentina.....	7	I (5)	300.00
		IV (1)	3,506.00
		(2)	1,850.00
		V (3)	15,000.00
			20,456.00
Australia.....	33	I (1)	2,336.00
		(2)	362.00
		(4)	1,198.05
		IV (2)	1,543.00
			5,439.05
Belgium.....	2	I (2)	38.00
		(4)	4.00
		IV (1)	67.58
		(2)	18.00
			127.58
Bolivia.....	4	IV (2)	376.00
		V (2)	2,500.00
		(3)	14,000.00
			16,876.00

Country of destination	Number of licenses issued	Categories	Value
Brazil.....	29	I (1) (2) (4) III (1) IV (1) V (2) (3)	\$552.00 310.00 1,000.00 18,000.00 5,130.05 25,710.00 3,850.00 3,000.00
			57,552.05
Canada.....	34	I (1) (2) (4) IV (1) V (1) (2) (3)	253.48 20.68 395.47 118.00 64.21 2,450.00 4,681.21
			7,983.05
Chile.....	3	V (1) (2)	4,400.00 275.00
			4,675.00
China.....	2	III (2) IV (2)	585.00 11.00
			596.00
Colombia.....	1	IV (1)	336.60
Costa Rica.....	1	IV (1)	23.38
Cuba.....	3	I (4) IV (1) (2)	115.28 54.00 350.00
			519.28
Czechoslovakia.....	2	I (4) (6)	320.00 3,920.00
			4,740.00
Denmark.....	1	I (4)	335.50
Dominican Republic.....	1	IV (2)	115.00
Ecuador.....	5	I (1) (4) (5) IV (2) V (2)	22.00 19.00 15.00 950.00 300.00
			1,306.00
El Salvador.....	1	I (2)	38.00
Finland.....	1	I (5) VI (1)	200.00 100.00
			300.00
France.....	1	I (4)	123.00
Germany.....	3	I (4) IV (1) (2)	158.00 88.05 42.00
			288.05
Great Britain and Northern Ireland.....	3	IV (2) V (2)	80.00 80.00
			3,805.80
Greece.....	1	I (3)	8,500.00
Guatemala.....	1	IV (1)	69.53
Honduras.....	1	IV (2)	1,245.00

Country of destination	Number of licenses issued	Categories	Value
India.....	10	I (1) (4) IV (1) (2)	\$221.30 1,584.62 148.00 62.90 1,816.82
Iran.....	1	V (2)	5,400.00
Iraq.....	2	IV (1) (2)	40.00 5.00 45.00
Irish Free State.....	2	I (2) IV (2)	170.00 7.80 177.80
Japan.....	5	I (1) V (1) (2) (3)	22.00 8,580.00 103,550.00 6,900.00 119,052.00
Kenya.....	2	IV (1) V (2)	86.00 4,300.00 4,386.00
Leeward Islands.....	2	IV (1)	25.50
Liberia.....	1	I (4)	3.00
Mauritius.....	2	I (1) (4)	59.00 267.00 326.00
Mexico.....	10	I (1) (2) (4) III (1) IV (1) (2)	1,675.94 119.00 2,024.69 20,000.00 7,697.53 16,455.00 47,972.16
Netherlands Indies.....	3	I (4) IV (1) (2)	142.00 238.00 37.00 417.00
New Caledonia.....	1	I (1) (4)	73.00 54.00 127.00
Newfoundland.....	2	I (4) IV (2)	42.00 4.00 46.00
New Zealand.....	10	I (1) (2) (4) IV (2)	122.00 43.00 45.00 39.00 249.00
Nicaragua.....	1	I (1)	39.00
Norway.....	2	I (4) IV (1)	6.00 34.00 40.00

Country of destination	Number of licenses issued	Categories	Value
Panama.....	5	I (1) (4) IV (2)	\$17.10 8.00 345.00
Papua.....	1	I (4)	370.10 18.00
Paraguay.....	2	IV (2) V (2)	900.00 104.00
			1,064.00
Peru.....	4	I (4) IV (1) (2) V (2)	173.00 1,400.00 12.00 527.00
			2,112.00
Poland.....	2	IV (1) V (2)	30.00 1,800.00
Portugal.....	2	IV (1)	1,830.00
Rumania.....	1	IV (1)	194.00 18.00
Saudi Arabia.....	2	V (2) (3)	200.00 7,000.00
			7,200.00
Siam.....	10	III (1) IV (1)	335,000.00 1,081.80
Southern Rhodesia.....	3	I (2)	336,031.80 95.00
Spain.....	4	I (4) IV (2) V (3)	42.00 183.00 9,777.00
			10,002.00
Sweden.....	1	V (2)	1,000.00
Switzerland.....	1	IV (1)	23.00
Trinidad and Tobago.....	3	V (3)	12,000.00
Turkey.....	2	I (2) (4)	3,800.00 8,500.00
			12,300.00
Union of South Africa.....	6	I (2) (4) IV (1) (2) V (2)	103.00 190.00 66.00 9.00 350.00
			718.00
Union of Soviet Socialist Republics.....	1	V (3)	998.00
Uruguay.....	2	I (2) (4) IV (2)	70.00 30.00 536.00
			651.00
Venezuela.....	4	I (4) IV (1) V (3)	115.00 600.96 6,800.00
			7,515.96
Total.....	262		708,882.72

The categories of arms, ammunition, and implements of war in the third column of the above table are the categories into which those articles were divided in the President's proclamation of September 25 enumerating the articles which would be considered as arms, ammunition, and implements of

war for the purposes of section 2 of the joint resolution of August 31, as follows:

Category I.

(1) Rifles and carbines using ammunition in excess of cal. .265, and their barrels.

(2) Machine guns, automatic rifles, and machine pistols of all calibers, and their barrels.

(3) Guns, howitzers, and mortars of all calibers, their mountings, and barrels.

(4) Ammunition for the arms enumerated under (1) and (2) above, i. e., high-power steel-jacketed ammunition in excess of cal. .265; filled and unfilled projectiles and propellants with a web thickness of .015 inch or greater for the projectiles of the arms enumerated under (3) above.

(5) Grenades, bombs, torpedoes, and mines, filled or unfilled, and apparatus for their use or discharge.

(6) Tanks, military armored vehicles, and armored trains.

Category II.

Vessels of war of all kinds, including aircraft carriers and submarines.

Category III.

(1) Aircraft, assembled or dismantled, both heavier and lighter than air, which are designed, adapted, and intended for aerial combat by the use of machine guns or of artillery or for the carrying and dropping of bombs, or which are equipped with, or which by reason of design or construction are prepared for, any of the appliances referred to in paragraph (2) below.

(2) Aerial gun mounts and frames, bomb racks, torpedo carriers, and bomb or torpedo release mechanisms.

Category IV.

Revolvers and automatic pistols of a weight in excess of 1 pound 6 ounces (630 grams), using ammunition in excess of cal. .265, and ammunition therefor.

NOTE.—(1) in the table printed above refers to revolvers and pistols and (2) refers to ammunition therefor.

Category V.

(1) Aircraft assembled or dismantled, both heavier and lighter than air, other than those included in category III.

(2) Propellers or air screws, fuselages, hulls, tail units, and under-carriage units.

(3) Aircraft engines.

Category VI.

(1) Livens projectors and flame throwers.

(2) Mustard gas, lewisite, ethyldichlorarsine, and methyldichlorarsine.

In compliance with article II of the convention between the United States and Cuba to suppress smuggling, signed at Habana March 11, 1926, which reads in part as follows:

"The High Contracting Parties agree that clearance of shipments of merchandise by water, air, or land, from any of the ports of either country to a port of entry of the other country, shall be denied when such shipment comprises articles the importation of which is prohibited or restricted in the country to which such shipment is destined, unless in this last case there has been a compliance with the requisites demanded by the laws of both countries."

And in compliance with the laws of Cuba which restrict the importation of arms, ammunition, and implements of war of all kinds by requiring an import permit for each shipment, export licenses for shipments of arms, ammunition, and implements of war to Cuba are required for the articles enumerated below in addition to the articles enumerated in the President's proclamation of September 25, 1935:

(1) Arms and small arms using ammunition less than cal. .265, other than those classed as toys.

(2) Spare parts of arms and small arms of all kinds and calibers, other than those classed as toys, and of guns and machine guns.

(3) Ammunition for the arms and small arms under (1) above.

(4) Sabers, swords, and military machetes with cross-guard hilts.

(5) Explosives as follows: Explosive powders of all kinds for all purposes; nitrocellulose; diphenylamine; trinitrotoluene; tetryl; dynamite of all kinds; nitroglycerine, ammonal; ammonium picrate; alkaline nitrates (including ammonium, potassium, and sodium nitrate); nitric acid; nitrobenzine (essence or oil of mirbane); sulphur; sulphuric acid; chlorate of potash; picric acid; and acetones.

(6) Tear gas ($C_6H_5COCH_2OL$) and other similar nontoxic gasses and apparatus designed for the storage or the projection of such gasses.

The table printed below indicates the number of licenses issued between December 1 and December 31, 1935, inclusive, for exportation to Cuba of the articles and commodities listed in the preceding paragraph:

Number of licenses	Sections	Value
18	(1)	\$888.25
	(2)	77.60
	(3)	2,352.59
	(5)	10,596.18
		13,908.62

X

[For the Press]

DEPARTMENT OF STATE,
October 6, 1935.

The President on October 5, 1935, issued the following:

A PROCLAMATION BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

Whereas section 6 of the joint resolution of Congress, approved August 31, 1935 (Public Res. 67, 74th Cong.), provides that—

"Whenever, during any war in which the United States is neutral, the President shall find that the maintenance of peace between the United States and foreign nations, or the protection of the lives of citizens of the United States, or the protection of the commercial interests of the United States and its citizens, or the security of the United States requires that the American citizens should refrain from traveling as passengers on the vessels of any belligerent nation, he shall so proclaim, and thereafter no citizen of the United States shall travel on any vessel of any belligerent nation except at his own risk, unless in accordance with such rules and regulations as the President shall prescribe: *Provided, however,* That the provisions of this section shall not apply to a citizen traveling on the vessel of a belligerent whose voyage was begun in advance of the date of the President's proclamation, and who had no opportunity to discontinue his voyage after that date: *And provided further,* That they shall not apply under ninety days after the date of the President's proclamation to a citizen returning from a foreign country to the United States or to any of its possessions. When, in the President's judgment, the conditions which have caused him to issue his proclamation have ceased to exist, he shall revoke his proclamation and the provisions of this section shall thereupon cease to apply."

AND WHEREAS war now unhappily exists between Ethiopia and the Kingdom of Italy; and

WHEREAS I find that the protection of the lives of citizens of the United States requires that American citizens should refrain from traveling as passengers on the vessels of either of the belligerent nations;

NOW, THEREFORE, I, FRANKLIN D. ROOSEVELT, President of the United States of America, acting under and by virtue of the authority vested in me by the said joint resolution of Congress, do hereby admonish all citizens of the United States to abstain from traveling on any vessel of either of the belligerent nations contrary to the provisions of the said joint resolution; and

I do hereby give notice that any citizen of the United States who may travel on such a vessel, contrary to the provisions of the said joint resolution, will do so at his own risk.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States to be affixed.

DONE at the city of Washington this fifth day of October, in the year of our Lord nineteen hundred and thirty-five, and of the Independence [SEAL] of the United States of America the one hundred and sixtieth.

FRANKLIN D. ROOSEVELT.

By the President:

CORDELL HULL,

Secretary of State.

XI

[FOR THE PRESS]

DEPARTMENT OF STATE,
October 5, 1935.

The President made the following statement tonight at the time of issuing his proclamation under section I of a joint resolution of Congress entitled "Joint Resolution Providing for the Prohibition of the Export of Arms, Ammunition, and Implements of War to Belligerent Countries;" etc.:

STATEMENT BY THE PRESIDENT OF THE UNITED STATES

"In view of the situation which has unhappily developed between Ethiopia and Italy, it has become my duty under the provisions of the joint resolution of Congress approved August 31, 1935, to issue, and I am today issuing my proclamation making effective an embargo on the exportation from this country to Ethiopia and Italy of arms, ammunition, and implements of war. Notwithstanding the hope we entertained that war would be avoided, and the exertion of our influence in that direction, we are now compelled to recognize the simple and indisputable fact that Ethiopian and Italian armed forces are engaged in combat, thus creating a state of war within the intent and meaning of the Joint Resolution.

"In these specific circumstances I desire it to be understood that any of our people who voluntarily engage in transactions of any character with either of the belligerents do so at their own risk."

XII

[For the Press. Confidential Release for Publication in the Morning Newspapers of Friday, Oct. 11, 1935; Not to be Previously Published, Quoted from, or Used in Any Way]

DEPARTMENT OF STATE,
October 10, 1935.

At the press conference at the Department of State today, in answer to the following question put to him by a correspondent: "Mr. Secretary, would you care to elaborate on what the President said about American interests trading with belligerents at their own risk?", Secretary Hull made the following remarks:

"As I said to you gentlemen heretofore, the language of the President's statement has thoroughly well-defined meaning and every person should be able to grasp its meaning and its implications. Technically, of course, there is no legal prohibition—apart from the proclamation governing the export of arms—against our people entering into transactions with the belligerents or either of them. The warning given by the President in his proclamation concerning travel on belligerent ships and his general warning that during the war any of our people who voluntarily engage in transactions of any character with either of the belligerents do so at their own risk were based upon the policy and purpose of keeping this country out of war, keeping it from being drawn into war. It certainly was not intended to encourage transactions with the belligerents.

"Our people might well realize that the universal state of business uncertainty and suspense on account of the war is seriously handicapping business between all countries, and that the sooner the war is terminated the sooner the restoration and stabilization of business in all parts of the world, which is infinitely more important than trade with the belligerents, will be brought about.

"This speedy restoration of more full and stable trade conditions and relationships among the nations is by far the most profitable objective for our people to visualize, in contrast with such risky and temporary trade as they might maintain with belligerent nations.

"I repeat that our objective is to keep this country out of war."

XIII

[For the Press. Confidential Release for Publication in Morning Newspapers of Sunday, Oct. 27, 1935. Which do not Appear on the Streets before 8 p. m., Eastern Standard Time; not to be Previously Published, Quoted from, or Used in any Way]

DEPARTMENT OF STATE,
October 26, 1935.

The Secretary of State today instructed the American Minister to Switzerland, Hugh R. Wilson, to make the following reply to the communication of October 21, 1935, addressed by the President of the Committee of Coordination to the Secretary of State:

"His Excellency Dr. AUGUSTO DE VASCONCELLOS,
President of the Committee of Coordination, League of Nations,
Geneva.

"EXCELLENCY: I have received your communication of October 21, transmitting certain documents in the Italo-Ethiopian dispute, including the minutes of the Council of October 7, the minutes of the Assembly from October 9 to 11, and the recommendations of the Coordination Committee, for which I desire to express appreciation.

"In regard to your statement that the governments represented on the Coordination Committee would welcome any communication which any non-member state may deem it proper to make to you, or notifications of any action which it may be taking in the circumstances, it is, of course, well known that the Government and people of the United States are deeply interested in the prevention of war, and hence in the sanctity of treaties and promotion of peace in every part of the world; that as a corollary to their abhorrence of war with the human sufferings, the impoverishment of states and peoples, business dislocation, and embittered feelings engendered by warfare, we are by tradition strong proponents of the principle that all differences between members of the family of nations should be settled by pacific means.

"I need only call attention to the Hague Convention of 1907 for the Pacific Settlement of International disputes, the Pact of Paris, in the negotiation of which the Government of the United States played an important part, the Anti-war Pact sponsored by the Argentine Government and signed at Rio de Janeiro on October 12, 1933, and the various conventions of conciliation and arbitration to which the United States is a party. These instruments of peace impose upon all nations parties thereto most solemn responsibilities, and no nation can look with complacency upon their non-observance.

"As regards the situation now unhappily existing between Ethiopia and Italy, I may point out that the Government of the United States put forth every practicable effort to aid in the preservation of peace, through conferences, official acts, diplomatic communications, and public statements, and emphasized particularly the principles of the Pact of Paris and the high legal and moral obligations of the signatories thereto. This Government repeatedly expressed its anxiety and the hope that the controversy would be resolved without resort to armed conflict and the conviction of the entire nation that failure to arrive at a peaceful settlement of the dispute and the subsequent outbreak of hostilities would be a world calamity.

"When, however, it was found that hostilities actually existed between Ethiopia and Italy, this Government, acting on its own initiative, promptly announced a number of basic measures primarily to avoid being drawn into the war, and which also would not be without effect in discouraging war.

"The President of the United States on October 5, 1935, issued a proclamation bringing into operation under an act of Congress an embargo on the exportation of arms, ammunition, and implements of war to both belligerents.

"The issuance of this proclamation automatically brought into operation another provision of the Act of Congress making it unlawful for any American vessel to carry arms, ammunition, or implements of war to any port of the belligerent countries or to any neutral port for transshipment to or for the use of either of the belligerents.

"On the same day the President issued a further proclamation warning American nationals against travel on belligerent vessels and stating that such travel would be at their own risk.

"In addition to the three measures just mentioned, the President took a fourth and most important step by issuing a public statement definitely warning American citizens against transactions of any character with either of the belligerent nations, except at their own risk.

"This latter statement was later emphasized when I publicly pointed out that the warning given by the President 'certainly was not intended to encourage transactions with the belligerents' and that 'Our people might well realize that the universal state of business uncertainty and suspense on account of the war is seriously handicapping business between all countries, and that the sooner the war is terminated the sooner the restoration and stabilization of business in all parts of the world, which is infinitely more important than trade with the belligerents, will be brought about', and that 'This speedy restoration of more full and stable trade conditions and relationships among the nations is by far the most profitable objective for our people to visualize, in contrast with such risky and temporary trade as they might maintain with belligerent nations.' This policy with respect to transactions with the belligerents I now reiterate and reaffirm.

"These steps have been taken for the purpose of dealing with this specific controversy and the special circumstances presented.

"The course thus pursued in advance of action by other governments most of which are parties to one or more of the peace pacts to which I have referred, represents the independent and affirmative policy of the Government of the United States and indicates its purpose not to be drawn into the war and its desire not to contribute to a prolongation of the war.

"Realizing that war adversely affects every country, that it may seriously endanger the economic welfare of each causes untold human misery, and even threatens the existence of civilization, the United States, in keeping with the letter and spirit of the Pact of Paris and other peace obligations, undertakes at all times to not only exercise its moral influence in favor of peace throughout the world but to contribute in every practicable way within the limitations of our foreign policy to that end. It views with sympathetic interest the individual or concerted efforts of other nations to preserve peace or to localize and shorten the duration of war.

"Accept, Excellency, the assurances of my highest consideration.

"CORDELL HULL."

XII

[For the Press; Immediate Release]

OCTOBER 30, 1935.

STATEMENT BY THE PRESIDENT

In dealing with the conflict between Ethiopia and Italy, I have carried into effect the will and intent of the Neutrality Resolution recently enacted by Congress. We have prohibited all shipments of arms, ammunition, and implements of war to the belligerent governments. By my public statement of October fifth, which was emphasized by the Secretary of State on October tenth, we have warned American citizens against transactions of any character with either of the belligerent nations except at their own risk.

This Government is determined not to become involved in the controversy and is anxious for the restoration and maintenance of peace.

However, in the course of war, tempting trade opportunities may be offered to our people to supply materials which would prolong the war. I do not believe that the American people will wish for abnormally increased profits

that temporarily might be secured by greatly extending our trade in such materials; nor would they wish the struggles on the battlefield to be prolonged because of profits accruing to a comparatively small number of American citizens.

Accordingly, the American Government is keeping informed as to all shipments consigned for export to both belligerents.

XV

[For the Press]

DEPARTMENT OF STATE,
October 30, 1935.

A member of the press having made inquiry as to whether the United States Government is keeping in touch with exports to the belligerent countries, the Secretary of State today said:

"We have been and are each day giving the most diligent and earnest attention to this and other phases of our situation as it relates to the Ethiopian-Italian controversy. At this stage I reiterate and call special attention to the definite implications and the effect of the policy of this Government to discourage dealings with the two belligerent nations as set forth in the President's public statement of October 5 and my statement of October 10 warning our people not to trade with the belligerents except at their own risk. The policy of the government as thus defined rests primarily upon the recent neutrality act designed to keep the nation out of war, and upon the further purpose not to aid in protracting the war.

"It is my opinion that our citizens will not be disposed to insist upon transactions to derive war profits at the expense of human lives and human misery. In this connection I again repeat that an early peace with the restoration of normal business and normal business profits is far sounder and far preferable to temporary and risky war profits."

XVI

[For the Press. Confidential Release for Publication at 10:45 P. M., Eastern Standard Time, Nov. 6, 1935; Not to be Previously Published, Quoted From, or Used in Any Way]

DEPARTMENT OF STATE,
November 6, 1935.

ADDRESS OF THE HONORABLE CORDELL HULL, SECRETARY OF STATE, OVER THE NETWORK OF THE COLUMBIA BROADCASTING SYSTEM, 10:45 P. M., EASTERN STANDARD TIME, NOVEMBER 6, 1935¹

OUR FOREIGN POLICY WITH RESPECT TO NEUTRALITY

Because of the generally unsettled world conditions, and the existence of hostilities between two powers with which we are on terms of friendship, the one phase of our "foreign policy" uppermost in the minds of our people today is that of neutrality. It is being discussed from the platforms, in the press, and in the streets. It is of concern to our people in every walk of life. They have not forgotten the bitter experiences of the World War, the calamitous effects of which will not be erased from their memories during our present generation. Is it, therefore, any wonder that they should be concerned regarding our policy of neutrality and the steps that their Government is taking to avoid a repetition of those experiences?

Modern neutrality dates from the latter part of the middle ages. Prior to that time neutrality was unknown, for the reason that belligerents did not recognize an attitude of impartiality on the part of other powers; under the laws of war observed by the most civilized nations of antiquity the right of one nation to remain at peace while neighboring nations were at war was not admitted to exist. Efforts made by nations from time to time to adopt an

¹ Secretary Hull being unavoidably out of the city, the Under Secretary of State, Mr. William Phillips, will read the address over the radio.

attitude of impartiality were successfully resisted by the belligerents, who proceeded on the theory that any country not an ally was an enemy. No intermediate relation was known to the pagan nations of those earlier times, and hence the term "neutrality" did not exist.

During the sixteenth century, however, neutrality as a concept in international law began to be recognized. In 1625 Hugo Grotius, sometimes referred to as the father of international law, published his celebrated treatise on the laws of peace and war. While his treatment of the subject of neutrality is brief and necessarily so because of the undeveloped status of the law of his time, he nevertheless recognized the possibility of third parties remaining neutral. He did not, however, have that conception of neutrality to which we have been accustomed in more recent times. He stated that it was the duty of those not engaged in a war "to do nothing whereby he who supports a wicked cause may be rendered more powerful, or whereby the movements of him who wages a just war may be hampered."

Since the days of Grotius, neutrality has passed through several stages of evolution. No nation has done more toward its development than has the United States. In 1794 Congress passed our first neutrality act, temporary in character, covering a variety of subjects. In 1818 permanent legislation on these subjects was passed. This legislation formed the basis of the British act of a similar character of 1819, known as the British Foreign Enlistment Act. Other legislation has been passed by Congress from time to time, including that enacted during the World War (I refer particularly to the act of June 15, 1917), and that enacted as recently as the last session of Congress, the joint resolution approved August 31, 1935. This last-mentioned resolution, intended to supplement prior legislation, is designed primarily to keep the United States out of foreign wars.

Pursuant to this resolution the President has issued two proclamations regarding the war now unhappily existing between Ethiopia and Italy. One of these declared the existence of a state of war within the meaning and intent of section 1 of the resolution, thus bringing into operation the embargo on the shipment of arms, ammunition, and implements of war from the United States to either belligerent, and the other declared that American citizens who travel on vessels of the belligerents shall do so at their own risk.

The effect of issuing the proclamation bringing into operation the embargo on the shipment of arms was automatically to bring into operation the provisions of section 3 of the resolution prohibiting American vessels from carrying arms, ammunition, or implements of war to any port of a belligerent country named in the proclamation, or to any neutral port for transshipment to or for the use of the belligerent country.

Any discussion of the avoidance of war, or of the observance of neutrality in the event of war, would be wholly incomplete if too much stress were laid on the part played in the one or the other by the shipment, or the embargoing of the shipment, of arms, ammunition, and implements of war. The shipment of arms is not the only way and, in fact, is not the principal way by which our commerce with foreign nations may lead to serious international difficulties. To assume that by placing an embargo on arms we are making ourselves secure from dangers of conflict with belligerent countries is to close our eyes to manifold dangers in other directions. The imposition of an arms embargo is not a complete panacea and we cannot assume that when provision has been made to stop the shipment of arms, which as absolute contraband have always been regarded as subject to seizure by a belligerent, we may complacently sit back with the feeling that we are secure from all danger. Attempts by a belligerent to exercise jurisdiction on the high seas over trade with its enemy, or with other neutral countries on the theory that the latter are supplying the enemy, may give rise to difficulties no less serious than those resulting from the exportation of arms and implements of war. So also transactions of any kind between American nationals and a belligerent may conceivably lead to difficulties of one kind or another between the nationals and that belligerent. Efforts of this Government to extend protection to these nationals might lead to difficulties between the United States and the belligerent. It was with these thoughts in mind that the President issued his timely warning that citizens of the United States who engage in transactions of any character with either belligerent would do so at their own risk.

Every war presents different circumstances and conditions which might have to be dealt with differently both as to time and manner. For these reasons, difficulties inherent in any effort to lay down by legislative enactment

inelastic rules or regulations to be applied to every situation that may arise will at once be apparent. The Executive should not be unduly or unreasonably handicapped. There are a number of ways in which discretion could wisely be given the President which are not and could not be seriously controversial. These might well include discretion as to the time of imposing an embargo. Moreover, we should not concentrate entirely on means for remaining neutral and lose sight of other constructive methods of avoiding involvement in wars between other countries. Our foreign policy would indeed be a weak one if it began or ended with the announcement of a neutral position on the outbreak of a foreign war. I conceive it to be our duty and in the interest of our country and of humanity, not only to remain aloof from disputes and conflicts with which we have no direct concern, but also to use our influence in any appropriate way to bring about the peaceful settlement of international differences. Our own interest and our duty as a great power forbid that we shall sit idly by and watch the development of hostilities with a feeling of self-sufficiency and complacency when by the use of our influence, short of becoming involved in the dispute itself, we might prevent or lessen the scourge of war. In short, our policy as a member of the community of nations should be twofold—first, to avoid being brought into a war and second, to promote as far as possible the interests of international peace and good will. A virile policy tempered with prudent caution is necessary if we are to retain the respect of other nations, and at the same time hold our position of influence for peace and international stability in the family of nations.

In summary, while our primary aim should be to avoid involvement in other people's difficulties and hence to lessen our chances of being drawn into a war, we should, on appropriate occasions and within reasonable bounds, use our influence toward the prevention of war and the miseries that attend and follow in its wake. For after all, if peace obtains, problems regarding neutrality will not arise.

XVII

[For the Press]

DEPARTMENT OF STATE,
November 15, 1935.

STATEMENT BY THE SECRETARY OF STATE, CORDELL HULL

In view of the many inquiries that are being asked from time to time with respect to trade with Ethiopia and Italy, I deem it proper again to call attention to the statement by the President on October 5, that he desired it "to be understood that any of our people who voluntarily engage in transactions of any character with either of the belligerents do so at their own risk."

On October 10 I explained that the President's statement was based primarily upon the policy and purpose of keeping this country out of war, and that "it certainly was not intended to encourage transactions with the belligerents." I further explained that "our people might well realize that the universal state of business uncertainty and suspense on account of the war is seriously handicapping business between all countries, and that the sooner the war is terminated the sooner the restoration and stabilization of business in all parts of the world, which is infinitely more important than trade with the belligerents, will be brought about." The President, in a statement on October 30, further emphasized the spirit of this policy.

The American people are entitled to know that there are certain commodities such as oil, copper, trucks, tractors, scrap iron and scrap steel which are essential war materials, although not actually "arms, ammunition, or implements of war", and that according to recent Government trade reports a considerably increased amount of these is being exported for war purposes. This class of trade is directly contrary to the policy of this Government as announced in official statements of the President and Secretary of State, as it is also contrary to the general spirit of the recent neutrality act.

The administration is closely observing the trend and volume of exports to those countries and within a few days the Department of Commerce expects to have complete detailed lists of all commodities exported to the belligerents which will enable exact comparison with lists for the same period last year.